

9-27-2010

State v. Anderson Clerk's Record v. 2 Dckt. 37591

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs

Recommended Citation

"State v. Anderson Clerk's Record v. 2 Dckt. 37591" (2010). *Idaho Supreme Court Records & Briefs*. 2690.
https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/2690

This Court Document is brought to you for free and open access by Digital Commons @ UIIdaho Law. It has been accepted for inclusion in Idaho Supreme Court Records & Briefs by an authorized administrator of Digital Commons @ UIIdaho Law. For more information, please contact annablaine@uidaho.edu.

LAW CLERK

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

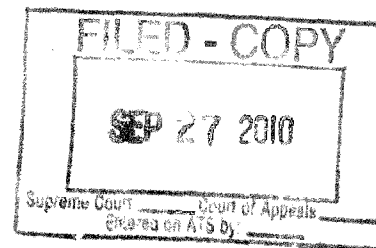
Defendent

Appealed from the District Court of the First Judicial
District of the State of Idaho, in and for Bonner County

HONORABLE STEVE VERBY
District Judge

MS. MOLLY J. HUSKEY
Attorney for Defendant

MR. LAWRENCE G. WASDEN
Attorney for Plaintiff



SEE AUGMENTATION RECORD VOLUME 2

37591

TABLE OF CONTENTS

Volume I

ROA'S	1-17
Criminal Complaint filed November 28, 2008	18-19
Jail Information Sheet filed November 28, 2008	20
Financial Statement and Order filed November 28, 2008	21-22
Court Minutes *First Appearance* dated November 28, 2008	23-25
Search Warrant filed November 28, 2008	26-28
Search Warrant filed December 3, 2008	29-32
Amended Search Warrant filed December 3, 2008	33-35
Notice of Intent to Produce Evidence of other Crimes, Wrongdoings or Acts Pursuant to Rule 404, Idaho Rules of Evidence filed December 8, 2008	36-42
Notice of Intent to not Seek Death Penalty filed December 9, 2008	43-44
Waiver of Speedy Preliminary Hearing filed December 10, 2008	45-46
Order to Continue Preliminary Hearing filed December 10, 2008	47
Search Warrant filed December 16, 2008	48-53
Amended Search Warrant filed December 16, 2008	54-56
Subpoena Returned – Jennifer L. Anderson filed December 16, 2008	57-58
Subpoena Returned – Patrick K. E. Ziarnick filed December 16, 2008	59-60
Subpoena Returned – Ian Freir filed December 16, 2008	61-62
Stipulated Motion to Continue Preliminary Hearing filed December 17, 2008	63-64
Waiver of Speedy Preliminary Hearing filed December 17, 2008	65-66

Order to Vacate and Continue Preliminary Hearing filed December 17, 2008	67-68
Search Warrant Returned filed December 23, 2008	69-71
Subpoena Returned – Patrick K. E. Ziarnick filed January 15, 2009.....	72-73
Subpoena Returned – Jennifer L. Anderson filed January 15, 2009.....	74-75
Order Holding Defendant to Answer filed January 21, 2009	76
Jail Information Sheet filed January 21, 2009	77
Exhibit List filed January 21, 2009	78
Court Minutes *Preliminary Hearing* dated January 21, 2009	79-96
Motion for Disqualification without cause Pursuant to Idaho Criminal Rule 25 (a) filed January 23, 2009	97-98
Order for Disqualification without cause Pursuant to Idaho Criminal Rule 25 (a) filed January 23, 2009.....	99-100
Information filed January 23, 2009	101-102
Order for Preparation of Transcript filed January 27, 2009	103-104
Motion for O.R. Release or for Reduction of bond; Notice of Hearing filed January 29, 2009.....	105-106
Defendant’s Objection to Notification per rule 404(b) filed February 5, 2009	107-108
Court Minutes *Arraignment/Motion* for Bond Reduction dated February 17, 2009	109-110
Jail Information Sheet filed February 17, 2009.....	111
Ex Parte Motion for Approval of Investigative Funds filed February 26, 2009	112-113
Notice of Trial and Pretrial Order filed February 26, 2009	114-116
Court Minutes *Motion for Bond Reduction or O.R. Release/Motion for Payment of Investigative Funds filed March 16, 2009.....	117-118
Jail Information Sheet filed March 16, 2009.....	119

Waiver of Extradition dated March 16, 2009.....	120
Motion and Stipulation to Release Evidence filed March 20, 2009.....	121-122
Order Releasing Evidence filed March 23, 2009	123-124
Order Granting Defendant's Motion for Investigative Services filed March 23, 2009	125-126
Subpoena Returned - Patrick K.E. Ziarnick filed March 23, 2009	127-128
Subpoena Returned - not served - Ian Freir filed March 23, 2009	129-130
Subpoena Returned - not served - Aubrey Rounsville filed March 23, 2009	131-132
Subpoena Returned - Tara Higgins filed March 23, 2009.....	133-134
Subpoena Returned - Manuel Padilla filed March 23, 2009	135-135
Subpoena Returned - Tricia Dickens MD filed March 23, 2009.....	137-138
Subpoena Returned - Chi Ziarnick filed March 23, 2009.....	139-140
Amended Notice of Trial filed March 25, 2009.....	141
Subpoena Returned - Tricia Dickens MD filed April 20, 2009.....	142-143
Subpoena Returned - Manual Padilla filed April 20, 2009	144-145
Subpoena Returned - Aubrey Rounsville filed April 20, 2009.....	146-147
Subpoena Returned - Ian Freir filed April 20, 2009.....	148-149
Subpoena Returned - Chi Ziarnick filed April 20, 2009.....	150-151
Subpoena Returned - Patrick K.E. Ziarnick filed April 20, 2009	152-153
Subpoena Returned - Tara N Higgins filed April 21, 2009	154-155
Warrant of Detention to Obtain Evidence filed April 29, 2009	156-162
Motion for Change of Venue filed June 4, 2009	163-164
Stipulated Motion to Vacate., Continue and Reset Defendant's Motion to Change Venue filed June 10, 2009	165
Order for Special Juror Questionnaire filed June 12, 2009	166-167

Order Vacating, Continuing and Resetting Motion to Change Venue filed June 12, 2009.....	168
Stipulated Motion to Continue Pretrial Conference and Jury Trial filed June 18, 2009.....	169-170
Order to Vacate and Continue Pretrial Conference and Jury Trial filed June 25, 2009.....	171-172
Amended Notice of Trial filed June 25, 2009	173
Court Minutes *Motion for Change of Venue/Motion to Appoint Conflict Attorney* dated July 6, 2009.....	174-175
Jail Information Sheet filed July 6, 2009.....	176
Motion for O.R. Release or Reduction of Bond; Notice of Hearing filed July 16, 2009	177-178
Court Minutes *Motion for Bond Reduction or O.R. Release* dated July 20, 2009	179
Jail Information Sheet filed July 20, 2009.....	180
Subpoena Returned – Aubrey Rounsville filed August 7, 2009.....	181-182
Subpoena Returned – Ian freir filed August 7, 2009	183-184
Subpoena Returned – Chi Ziarnick filed August 7, 2009	185-186
Subpoena Returned – Amasa Gee filed August 7, 2009	187-188
Subpoena Returned – Manuel Padilla filed August 7, 2009	189-190
Subpoena Returned – Patrick K.E. Ziarnick filed August 7, 2009.....	191-192
Subpoena Returned – Tricia L Dickens MD filed August 13, 2009.....	193-194
Subpoena Returned – Tara Higgins filed August 13, 2009	195-196
Motion for Special Jury Questionnaire filed September 15, 2009	197
Order for Special Juror Questionnaire filed September 15, 2009	198-199
Subpoena Duces Tecum issued Custodian of Records, Idaho Department of Health and Welfare filed September 17, 2009.....	200
Subpoena Returned – Mary Payton filed September 21, 2009	201

Ex Parte Motion for Orders Permitting Disclosure of Health Information filed September 23, 2009.....	202-203
Stipulation Re: Evidence Testing by the Defense filed September 23, 2009 .	204-205
Juror Pre-Trial Qualification Hearing filed September 25, 2009	206
Subpoena Returned – Jennifer Anderson filed September 29, 2009	207-208
Motion in Limine;Notice of Hearing filed September 30, 2009.....	209-210
Court Minutes *Pre-Trial Qualification Hearing for James Anderson Trial* dated October 2, 2009	211
Jail Information Sheet filed October 5, 2009.....	212
Court Minutes *Motion for Orders Permitting Disclosure of Health Information dated October 5, 2009	213-214

Volume II

Ex Parte Motion for Payment of Expenses of Defense filed October 7, 2009	215-216
Court Minutes *PreTrial Conference* dated October 8, 2009.....	217
Court Minutes *Motion in Limine* dated October 8, 2009	218
Order for Payment of Expenses of Defense filed October 9, 2009	219-220
Order Denying Disclosure of Health Information filed October 8, 2009	221-223
Subpoena Returned – TPR Kevin Bennett filed October 16, 2009.....	224-225
Order Regarding Closing Arguments filed October 19, 2009	226-229
Court Minutes *Jury Trial – Day 1* dated October 13, 2009.....	230-246
Court Minutes *Jury Trial – Day 2* dated October 14, 2009.....	247-268
Court Minutes *Jury Trial – Day 3* dated October 15, 2009.....	269-298
Court Minutes *Jury Trial – Day 4* dated October 16, 2009.....	299-327
Subpoena Returned – Christopher Bonner filed October 19, 2009	328-329
Subpoena Returned - Christopher Bonner filed October 19, 2009.....	330-331
Court Minutes *Jury Trial – Day 5* dated October 19, 2009.....	332-346

Subpoena Returned – Tracey Hubbard filed October 20, 2009	347-348
Court Minutes *Jury Trial – Day 6* dated October 20, 2009	349-354
Jail Information Sheet filed October 20, 2009	355
Verdict filed October 20, 2009	356-358
Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal; Notice of Hearing filed October 26, 2009	359-360
Motion for Stay of Execution of Judgment and for O.R. Release or Admission to Bail Pending Appeal; Notice of Hearing filed October 26, 2009	361-362
Motion for Preparation of Transcript filed October 30, 2009	363-364
Motion and Stipulation to Release filed November 4, 2009	365
Order to Release Vehicle (to Ian Freir) filed November 17, 2009	366-367
Jail Information Sheet filed November 17, 2009	368
Court Minutes *Motion for Stay of Execution of Judgment Pending Appeal and for O.R. Release or Admission to Bail Pending Appeal; Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal dated November 17, 2009	369-370
Order for Preparation of Transcript filed November 18, 2009	371
Notice of Hearing filed November 23, 2009	372
Notice of Intent to Provide Testimony at Sentencing filed January 15, 2010	373-377
Motion for New Trial; Notice of Hearing filed January 15, 2010	378-379
Stipulated Motion to Continue Sentencing filed January 19, 2010	380-381
Court Minutes *Sentencing* dated January 19, 2010	382-383
Jail Information Sheet filed January 19, 2010	384
Subpoena Returned – Detective Sgt Howard Burke filed January 20, 2010	385
Court Minutes *Sentencing* dated February 12, 2010	386-391
Jail Information Sheet filed February 12, 2010	392
Judgment and Commitment filed March 1, 2010	393-396

Submission to Court filed March 15, 2010.....	397-401
Motion for Restitution and Notice of Hearing filed March 16, 2010	402-406
Motion for Stay of Execution of Judgment and for O.R. Release or Admission to Bail Pending Appeal; Notice of Hearing filed March 19, 2010.....	407-408
Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal; Notice of Hearing filed March 19, 2010	409-410
Objection to Defendant's Motion to Set Aside Jury Verdict and Motion to Strike filed March 23, 2010.....	411
Motion for Appointment of State Appellate Public defender filed April 7, 2010 filed April 7, 2010.....	412-413
Notice of Appeal filed April 7, 2010.....	414-417
Order for Appointment of State Appellate Public Defender filed April 8, 2010	418-419
Order for Telephonic Appearance filed April 13, 2010	420-421
Court Minutes *Motion for Stay of Execution of Judgment and for O.R. Release or Admission to Bail Pending Appeal - Motion for Restitution dated May 20, 2010	422-424
Civil Judgment filed June 11, 2010	425-426
Augmented	
Letter to Judge Verby Stating to Vacate Motion for Change of Venue Hearing filed July 31, 2009	427
Exhibit Listed filed February 12, 2010	428
Notice of Loss of Right to Vote filed March 9, 2010.....	429
Objection to Motion for Restitution filed April 16, 2010	430-431

Amended Notice of Trial filed June 25, 2009	173
Amended Notice of Trial filed March 25, 2009.....	141
Amended Search Warrant filed December 16, 2008	54-56
Amended Search Warrant filed December 3, 2008	33-35
Augmented	
Civil Judgment filed June 11, 2010	425-426
Court Minutes *Preliminary Hearing* dated January 21, 2009.....	79-96
Court Minutes *Arraignment/Motion* for Bond Reduction dated February 17, 2009	109-110
Court Minutes *First Appearance* dated November 28, 2008	23-25
Court Minutes *Jury Trial - Day 1* dated October 13, 2009	230-246
Court Minutes *Jury Trial - Day 2* dated October 14, 2009	247-268
Court Minutes *Jury Trial - Day 3* dated October 15, 2009	269-298
Court Minutes *Jury Trial - Day 4* dated October 16, 2009	299-327
Court Minutes *Jury Trial - Day 5* dated October 19, 2009.....	332-346
Court Minutes *Jury Trial - Day 6* dated October 20, 2009.....	349-354
Court Minutes *Motion for Bond Reduction or O.R. Release* dated July 20, 2009	179
Court Minutes *Motion for Bond Reduction or O.R. Release/Motion for Payment of Investigative Funds filed March 16, 2009.....	117-118
Court Minutes *Motion for Change of Venue/Motion to Appoint Conflict Attorney* dated July 6, 2009.....	174-175
Court Minutes *Motion for Orders Permitting Disclosure of Health Information dated October 5, 2009	213-214
Court Minutes *Motion for Stay of Execution of Judgment and for O.R. Release or Admission to Bail Pending Appeal - Motion for Restitution dated May 20, 2010	422-424
Court Minutes *Motion for Stay of Execution of Judgment Pending Appeal and for O.R. Release or Admission to Bail Pending Appeal; Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal dated November 17, 2009.....	369-370
Court Minutes *Motion in Limine* dated October 8, 2009	218

Court Minutes *PreTrial Conference* dated October 8, 2009.....	217
Court Minutes *Pre-Trial Qualification Hearing for James Anderson Trial* dated October 2, 2009	211
Court Minutes *Sentencing* dated February 12, 2010.....	386-391
Court Minutes *Sentencing* dated January 19, 2010	382-383
Criminal Complaint filed November 28, 2008.....	18-19
Defendant's Objection to Notification per rule 404(b) filed February 5, 2009	107-108
Ex Parte Motion for Approval of Investigative Funds filed February 26, 2009	112-113
Ex Parte Motion for Orders Permitting Disclosure of Health Information filed September 23, 2009.....	202-203
Ex Parte Motion for Payment of Expenses of Defense filed October 7, 2009	215-216
Exhibit List filed January 21, 2009	78
Exhibit Listed filed February 12, 2010	428
Financial Statement and Order filed November 28, 2008	21-22
Information filed January 23, 2009	101-102
Jail Information Sheet filed February 12, 2010.....	392
Jail Information Sheet filed February 17, 2009.....	111
Jail Information Sheet filed January 19, 2010	384
Jail Information Sheet filed January 21, 2009.....	77
Jail Information Sheet filed July 20, 2009	180
Jail Information Sheet filed July 6, 2009.....	176
Jail Information Sheet filed March 16, 2009.....	119
Jail Information Sheet filed November 17, 2009	368
Jail Information Sheet filed November 28, 2008	20
Jail Information Sheet filed October 20, 2009.....	355
Jail Information Sheet filed October 5, 2009.....	212
Judgment and Commitment filed March 1, 2010	393-396
Juror Pre-Trial Qualification Hearing filed September 25, 2009	206
Letter to Judge Verby Stating to Vacate Motion for Change of Venue Hearing filed July 31, 2009	427
Motion and Stipulation to Release Evidence filed March 20, 2009.....	121-122

Motion and Stipulation to Release filed November 4, 2009.....	365
Motion for Appointment of State Appellate Public defender filed April 7, 2010 filed April 7, 2010.....	412-413
Motion for Change of Venue filed June 4, 2009	163-164
Motion for Disqualification without cause Pursuant to Idaho Criminal Rule 25 (a) filed January 23, 2009	97-98
Motion for New Trial; Notice of Hearing filed January 15, 2010.....	378-379
Motion for O.R. Release or for Reduction of bond; Notice of Hearing filed January 29, 2009.....	105-106
Motion for O.R. Release or Reduction of Bond; Notice of Hearing filed July 16, 2009	177-178
Motion for Preparation of Transcript filed October 30, 2009.....	363-364
Motion for Restitution and Notice of Hearing filed March 16, 2010	402-406
Motion for Special Jury Questionnaire filed September 15, 2009	197
Motion for Stay of Execution of Judgment and for O.R. Release or Admission to Bail Pending Appeal; Notice of Hearing filed October 26, 2009.....	361-362
Motion for Stay of Execution of Judgment and for O.R. Release or Admission to Bail Pending Appeal; Notice of Hearing filed March 19, 2010.....	407-408
Motion in Limine; Notice of Hearing filed September 30, 2009.....	209-210
Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal; Notice of Hearing filed October 26, 2009	359-360
Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal; Notice of Hearing filed March 19, 2010	409-410
Notice of Appeal filed April 7, 2010.....	414-417
Notice of Hearing filed November 23, 2009.....	372
Notice of Intent to not Seek Death Penalty filed December 9, 2008	43-44
Notice of Intent to Produce Evidence of other Crimes, Wrongdoings or Acts Pursuant to Rule 404, Idaho Rules of Evidence filed December 8, 2008.....	36-42
Notice of Intent to Provide Testimony at Sentencing filed January 15, 2010.....	373-377
Notice of Loss of Right to Vote filed March 9, 2010.....	429
Notice of Trial and Pretrial Order filed February 26, 2009	114-116
Objection to Defendant's Motion to Set Aside Jury Verdict and Motion to Strike filed March 23, 2010.....	411
Objection to Motion for Restitution filed April 16, 2010	430-431

Order Denying Disclosure of Health Information filed October 8, 2009	221-223
Order for Appointment of State Appellate Public Defender filed April 8, 2010	418-419
Order for Disqualification without cause Pursuant to Idaho Criminal Rule 25 (a) filed January 23, 2009	99-100
Order for Payment of Expenses of Defense filed October 9, 2009	219-220
Order for Preparation of Transcript filed January 27, 2009	103-104
Order for Preparation of Transcript filed November 18, 2009	371
Order for Special Juror Questionnaire filed June 12, 2009	166-167
Order for Special Juror Questionnaire filed September 15, 2009	198-199
Order for Telephonic Appearance filed April 13, 2010	420-421
Order Granting Defendant's Motion for Investigative Services filed March 23, 2009	125-126
Order Holding Defendant to Answer filed January 21, 2009	76
Order Regarding Closing Arguments filed October 19, 2009	226-229
Order Releasing Evidence filed March 23, 2009	123-124
Order to Continue Preliminary Hearing filed December 10, 2008	47
Order to Release Vehicle (to Ian Freir) filed November 17, 2009	366-367
Order to Vacate and Continue Preliminary Hearing filed December 17, 2008	67-68
Order to Vacate and Continue Pretrial Conference and Jury Trial filed June 25, 2009	171-172
Order Vacating, Continuing and Resetting Motion to Change Venue filed June 12, 2009	168
ROA'S	1-17
Search Warrant filed December 16, 2008	48-53
Search Warrant filed December 3, 2008	29-32
Search Warrant filed November 28, 2008	26-28
Search Warrant Returned filed December 23, 2008	69-71
Stipulated Motion to Continue Preliminary Hearing filed December 17, 2008	63-64
Stipulated Motion to Continue Pretrial Conference and Jury Trial filed June 18, 2009	169-170
Stipulated Motion to Continue Sentencing filed January 19, 2010	380-381

Stipulated Motion to Vacate., Continue and Reset Defendant's Motion to Change Venue filed June 10, 2009	165
Stipulation Re: Evidence Testing by the Defense filed September 23, 2009	204-205
Submission to Court filed March 15, 2010.....	397-401
Subpoena Returned - Christopher Bonner filed October 19, 2009	328-329
Subpoena Duces Tecum issued Custodian of Records, Idaho Department of Health and Welfare filed September 17, 2009	200
Subpoena Returned - Christopher Bonner filed October 19, 2009	330-331
Subpoena Returned - Amasa Gee filed August 7, 2009	187-188
Subpoena Returned - Aubrey Rounsville filed April 20, 2009.....	146-147
Subpoena Returned - Aubrey Rounsville filed August 7, 2009.....	181-182
Subpoena Returned - Chi Ziarnick filed April 20, 2009.....	150-151
Subpoena Returned - Chi Ziarnick filed August 7, 2009	185-186
Subpoena Returned - Chi Ziarnick filed March 23, 2009.....	139-140
Subpoena Returned - Detective Sgt Howard Burke filed January 20, 2010.....	385
Subpoena Returned - Ian Freir filed April 20, 2009	148-149
Subpoena Returned - Ian freir filed August 7, 2009	183-184
Subpoena Returned - Ian Freir filed December 16, 2008	61-62
Subpoena Returned - Jennifer Anderson filed September 29, 2009	207-208
Subpoena Returned - Jennifer L. Anderson filed December 16, 2008	57-58
Subpoena Returned - Jennifer L. Anderson filed January 15, 2009.....	74-75
Subpoena Returned - Manual Padilla filed April 20, 2009	144-145
Subpoena Returned - Manuel Padilla filed August 7, 2009	189-190
Subpoena Returned - Manuel Padilla filed March 23, 2009	135-135
Subpoena Returned - Mary Payton filed September 21, 2009	201
Subpoena Returned - not served - Aubrey Rounsville filed March 23, 2009	131-132
Subpoena Returned - not served - Ian Freir filed March 23, 2009	129-130
Subpoena Returned - Patrick K. E. Ziarnick filed December 16, 2008.....	59-60
Subpoena Returned - Patrick K. E. Ziarnick filed January 15, 2009.....	72-73
Subpoena Returned - Patrick K.E. Ziarnick filed April 20, 2009	152-153
Subpoena Returned - Patrick K.E. Ziarnick filed August 7, 2009.....	191-192
Subpoena Returned - Patrick K.E. Ziarnick filed March 23, 2009	127-128

Subpoena Returned - Tara Higgins filed August 13, 2009	195-196
Subpoena Returned - Tara Higgins filed March 23, 2009.....	133-134
Subpoena Returned - Tara N Higgins filed April 21, 2009	154-155
Subpoena Returned - TPR Kevin Bennett filed October 16, 2009.....	224-225
Subpoena Returned - Tracey Hubbard filed October 20, 2009	347-348
Subpoena Returned - Tricia Dickens MD filed April 20, 2009.....	142-143
Subpoena Returned - Tricia Dickens MD filed March 23, 2009.....	137-138
Subpoena Returned - Tricia L Dickens MD filed August 13, 2009.....	193-194
Verdict filed October 20, 2009	356-358
Waiver of Extradition dated March 16, 2009.....	120
Waiver of Speedy Preliminary Hearing filed December 17, 2008	65-66
Waiver of Speedy Preliminary Hearing filed December 10, 2008	45-46
Warrant of Detention to Obtain Evidence filed April 29, 2009	156-162

ORIGINAL

Bonner County Public Defender's Office
 Isabella Robertson (ISBN: 6068)
 406 S. Ella Street
 Sandpoint, Idaho 83864
 Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

2009 OCT -7 A 10:34

MARIE SCOTT
 CLERK DISTRICT COURT
bm

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE IDAHO
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON,

Defendant.

CASE NUMBER CR-08-0007529

**EX PARTE MOTION FOR PAYMENT OF
 EXPENSES OF DEFENSE**

COMES NOW the Defendant, James M. Anderson, by and through his attorney of record, Isabella Robertson, Bonner County Public Defender, and pursuant to I.C. §§ 19-851, 19-852, and I.C.R. 45(c), respectfully moves this Honorable Court to enter its ex parte Order for payment of expenses of the defense in the above-entitled matter.

The foregoing motion is made and based upon the Affidavit of Isabella Robertson in Support of Ex Parte Motion for Payment of Expenses of Defense filed concurrently herewith.

DATED this 7 day of October, 2009.

OFFICE OF THE BONNER COUNTY
 PUBLIC DEFENDER

BY *Isabella Robertson*
 ISABELLA ROBERTSON
 PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing the same in the Bonner County courthouse interoffice mailbox or by facsimile on the 12 day of October, 2009, addressed to:

Louis Marshall
Bonner County Prosecuting Attorney
Fax: 263-6726.

Clair Walpole

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SUSAN AYERLE
DIVISION: DISTRICT

CASE NO. CR-2008-7529
DATE: OCT 8 2009 TIME: 2:00 AM
CD: 09-245

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS
CHARGE

PRETRIAL CONFERENCE

INDEX	SPEAKER	PHASE OF CASE
	J	Calls Case
		Present: DEF IN CUSTODY WITH ISABELLA ROBERTSON; LOUIS MARSHALL FOR STATE
1208	IR	MAY WE DO PRETRIAL CONFERENCE
	J	WE CAN ASSUMING THAT THERE IS NO RESOLUTION
	IR	NO SIR
J	J	PRETRIAL CONFERENCE CAN STATE TO PRESS NO RESOLUTION, THIS MATTER GOING TO TRIAL – THAT IS NOT SEALED OTHER EVIDENTIARY ISSUES WE CAN TAKE CARE OF IN ADVANCE
	IR	THINK WE'LL BE ABLE TO SETTLE LAST BETWEEN OURSELVES
1209		END

- 217 -

COURT MINUTES

DATE: 10/08/2009

JUDGE: STEVE VERBY

SUBJECT OF PROCEEDINGS: Motion in Limine

SEE SEALED EXHIBIT

SEALED FROM PUBLIC REVIEW

Bonner County Public Defender's Office
 Isabella Robertson (ISBN: 6068)
 Janet K. Whitney (ISBN: 6624)
 406 S. Ella Street
 Sandpoint, Idaho 83864
 Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

2009 OCT -9 A 11:31

MARIE SCOTT
 CLERK DISTRICT COURT
ms
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON

Defendant.

CASE NUMBER CR-08-0007529

**ORDER FOR PAYMENT OF EXPENSES
 OF DEFENSE**

The above-entitled matter having come before the Court upon the Defendant's Ex Parte Motion for Payment of Expenses of Defense and supporting Affidavit on file herein, and good cause appearing; now, therefore,

IT IS HEREBY ORDERED that the Bonner County Clerk set aside from public funds the additional sum of _____ Dollars (\$13,103) to the Bonner County Public Defender's budget line item number 526-00, entitled "Contingency Account," or such other line item number as the Clerk may deem appropriate, for payment of pretrial costs of defense in this case.

DATED this 9th day of October, 2009.

Steve Varty
 DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that true and correct copies of the foregoing were personally served by placing copies of the same in the interoffice mailbox or by facsimile on the 9th day of October, 2009, addressed to:

Isabella Robertson
Bonner County Public Defender
Fax: 255-7559

Louis Marshall
Bonner County Prosecuting Attorney
Louis Marshall
Chief Deputy Prosecuting Attorney
Fax: 263-6726

Marie Scott
Bonner County Clerk/Auditor
Fax: 255-2554.

Cherie Moore

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2009 OCT -8 A 8:37

MARIE SCOTT
CLERK DISTRICT COURT
cm
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff,

v.

JAMES M. ANDERSON,

Defendant.

CASE NO: CR-2008-0007529

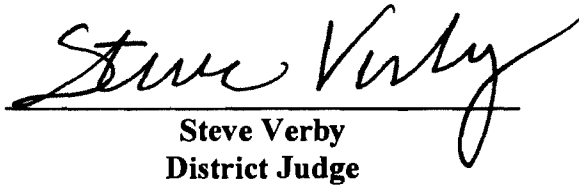
**ORDER DENYING DISCLOSURE
OF HEALTH INFORMATION**

On September 23, 2009, Defendant James M. Anderson filed an Ex Parte Motion for Orders Permitting Disclosure of Health Information protected by federal privacy regulations. Mr. Anderson's attorney, Isabella Robertson, filed an affidavit in support of said motion. A hearing on the motion was held on October 5, 2009, at which time both parties were present. At the conclusion of the hearing, the Court took the matter under advisement.

NOW, THEREFORE, after due consideration, the Court denies Mr. Anderson's motion because no legal authority has been presented which would authorize the Court to grant disclosure of privileged communications.

IT IS SO ORDERED.

DATED this 8th day of October, 2009.

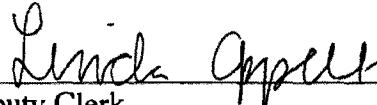

Steve Verby
District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via facsimile transmission or Courthouse Mail, this 8 day of October, 2009, to:

Isabella Robertson
Bonner County Public Defender
Sandpoint, Idaho 83864
Courthouse Mail
Fax#: (208) 255-7559

Louis E. Marshall
Bonner County Deputy Prosecutor
Sandpoint, Idaho 83864
Courthouse Mail
Fax#: (208) 263-6726


Deputy Clerk

ORIGINAL

BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (ISBN: 6068)
406 S. Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2009 OCT 16 P 2:13

MARIE SCOTT
CLERK DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

V.

James M. Anderson,

Defendant.

CASE NUMBER CR-2008-0007529

SUBPOENA

TO: Tpr. Kevin Bennett, Idaho State Police,
615 W. Wilbur Avenue, Coeur d'Alene, ID 83814.

YOU ARE HEREBY COMMANDED that laying aside all excuses, you appear in the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, in Sandpoint, Idaho, on the 19th day of October, 2009, at the hour of 9:00 a.m., as a witness in the above-entitled matter on the part of the defendant.

YOU ARE FURTHER NOTIFIED THAT IF YOU FAIL TO APPEAR AT THE PLACE AND TIME SPECIFIED ABOVE, THAT YOU MAY BE HELD IN CONTEMPT OF COURT AND THAT THE AGGRIEVED PARTY MAY RECOVER FROM YOU THE SUM OF \$100.00 AND ALL DAMAGES WHICH HE MAY SUSTAIN BY YOUR FAILURE TO ATTEND AS A WITNESS.

GIVEN UNDER MY HAND THIS 13 day of August, 2009.

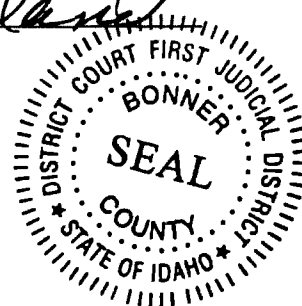
Please call the Public Defender's office at (208) 255-7889 upon receipt of this subpoena to schedule the time for your appearance as a witness in this matter.

MARIE SCOTT
CLERK OF THE DISTRICT COURT

BY

Jody Moreland
Deputy Clerk

SUBPOENA



OFFICE OF SHERIFF OF KOOTENAI COUNTY

I hereby certify that I served the within subpoena to the person named therein, and delivered a true copy thereof to said person on the 14 day of oct.

ROCKY WATSON, Sheriff

By 

Deputy

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2009 OCT 19 A 11:01

MARIE SCOTT
CLERK DISTRICT COURT

cm
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,)	
	)	CASE NO. CR 2008-0007529
Plaintiff,)	
	)	ORDER REGARDING
v.	)	CLOSING ARGUMENTS
)	
JAMES M. ANDERSON,)	
)	
Defendant.)	

1. Counsel shall refrain from expressing personal opinion as to the guilt or innocence of the accused or the credibility of any witness.

State v. Timmons, 145 Idaho 279, 178 P.3d 644 (Ct. App. 2007)

State v. Phillips, 144 Idaho 82, 156 P.3d 583 (Ct. App. 2007)

State v. Lovelass, 133 Idaho 160, 983 P.2d 233 (Ct. App. 1999)

State v. Priest, 128 Idaho 6, 909 P.2d 624 (Ct. App. 1995)

2. Counsel shall not make an argument that is not based upon the facts or the evidence or reasonable inferences that can be drawn therefrom, and shall not misstate the evidence.

State v. Gerardo, 147 Idaho 22, 205 P.3d 671 (Ct. App. 2009)

State v. Gutierrez, 143 Idaho 289, 141 P.3d 1158 (Ct. App. 2006)

State v. Spencer, 74 Idaho 173, 258 P.2d 1147 (1953)

ORDER REGARDING CLOSING ARGUMENTS

3. Counsel shall avoid commenting on the other party's failure to call a witness unless the witness was under the control of that party and the court has made a prior approval of the argument.
4. Counsel shall not use derogatory terms when referring to the accused, a witness, or opposing counsel, unless the defendant takes the witness stand and admits lying, and then the defendant can be called a liar. Counsel shall not disparage opposing counsel's occupation or performance in court, and the State shall not argue that defense counsel does not believe in her client's case.

State v. Contreras-Gonzales, 146 Idaho 41, 190 P.3d 197 (Ct. App. 2008)

State v. Phillips, 144 Idaho 82, 156 P.3d 583 (Ct. App. 2007)

State v. Sheahan, 139 Idaho 267, 77 P.3d 956 (2003)

State v. Page, 135 Idaho 214, 16 P.3d 890 (2000)

State v. Brown, 131 Idaho 61, 951 P.2d 1288 (Ct. App. 1998)

5. Counsel shall not make an argument solely designed to elicit sympathy from the jury, or appeal to their racial or ethnic prejudices.

State v. Beebe, 145 Idaho 570, 181 P.3d 496 (Ct. App. 2007)

State v. Romero-Garcia, 139 Idaho 199, 75 P.3d 1209 (Ct. App. 2003)

State v. LaMere, 103 Idaho 839, 655 P.2d 46 (1982)

- ~~6. Counsel shall refrain from referring to the demeanor of the accused in court other than while the defendant is on the witness stand.~~ S.V. Not applicable.

7. Counsel shall not comment on objections made by opposing counsel.

8. The State shall not make an argument that is "fairly susceptible" to being interpreted as a comment on the silence of the accused, if the defendant does not take the witness stand.

State v. McCoy, 100 Idaho 753, 605 P.2d 517 (1980).

9. The State shall not make an argument that urges the jury to "send a message" to the community or that urges the jury to convict for the safety of the community.

State v. Beebe, 145 Idaho 570, 181 P.3d 496 (Ct. App. 2007)

10. The State shall not make an argument that police officers should be believed because they are officers or because they would not jeopardize their careers by lying on the witness stand.

State v. Gross, 146 Idaho 15, 189 P.3d 477 (Ct. App. 2008)

11. The State shall not denigrate the roll of the jury by mentioning the post trial judicial process or the appellate process.

Caldwell v. Mississippi, 472 U.S. 320, 105 S. Ct. 2633 (1985)

12. The State shall not argue for the jury to “show the defendant no mercy” or to “show the defendant the same mercy” as was shown to the victim.

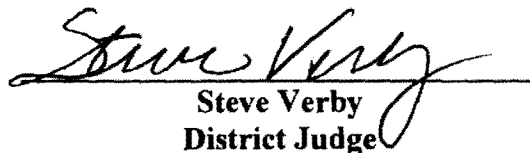
13. Counsel shall not attack the credibility of a witness during any closing argument by making reference to religious beliefs, or argue religious authority as the basis for punishment.

State v. Payne, 146 Idaho 548, 199 P.3d 123 (2008)

State v. Phillips, 144 Idaho 82, 156 P.3d 583 (Ct. App. 2007)

IT IS SO ORDERED.

DATED this 19th day of October, 2009.


Steve Verby
District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via facsimile transmission or Courthouse Mail, this 19th day of October, 2009, to:

Isabella Robertson (HAND DELIVERED)
Bonner County Public Defender
Sandpoint, Idaho 83864
Courthouse Mail
Fax#: (208) 255-7559

Louis E. Marshall (HAND DELIVERED)
Bonner County Deputy Prosecutor
Sandpoint, Idaho 83864
Courthouse Mail
Fax#: (208) 263-6726

Cherie Moore
Deputy Clerk

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SUSAN AYERLE
DIVISION: DISTRICT

CASE NO. CR-2008-7529
DATE: OCT 13 2009 **TIME: 8:00 AM**
CD: 09-251

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS
CHARGE

JURY TRIAL - DAY 1

INDEX	SPEAKER	PHASE OF CASE
902	J	Calls Case
		Present: DEFENDANT IN CUSTODY WITH ISABELLA ROBERTSON; LOUIS MARSHALL FOR STATE
	CQ	ROLL CALL
908	J	GREET COURTROOM READY
	BOTH	YES
	J	CHALLENGES TO PANEL
	LM	NO
	IR	NO
909	CLERK	ADMINISTERS VOIR DIRE OATH
	J	EXPLAINS VOIR DIRE INTRODUCES STAFF PLEASE LIST NUMBER WHEN RESPONDING TO QUESTION PUT DUTY IN PERSPECTIVE
914	J	STATE OF IDAHO, BY LOUIS MARSHALL
	LM	INTRODUCES DETECTIVE HOWARD BURKE
915	LM	BRIEF OUTLINE OF CASE ISSUES IMPORTANT IN SELECTING A JURY
918	IR	INTRODUCES JANET WHITNEY AND DEFENDANT JAMES ANDERSON BRIEF STATEMENT OF THE CASE
920	IR	CONTINUES STATEMENT PERSPECTIVES AROUND SELF DEFENSE AND ACCIDENTAL DEATH
920	J	THANK YOU BOTH IN A MINUTE CLERK WILL READ INFORMATION INFORMATION NOT EVIDENCE, A FORMAL CHARGE
921	CLERK	READS INFORMATION
922	J	PRESUMPTION OF INNOCENCE INSTRUCTIONS AS TO LAW THAT APPLIES DUTIES OF JURORS - DETERMINE THE FACTS, APPLY THE LAW TO THOSE FACTS, IN THIS WAY TO DECIDE THE CASE MUST FOLLOW THOSE INSTRUCTIONS REGARDLESS OF YOUR OPINION ADMONISHES PANEL EXPLAINS VOIR DIRE PROCESS PURPOSE OF OBJECT OF VOIR DIRE TO OBTAIN IMPARTIAL JURORS QUESTIONING FOR OBTAINING IMPARTIAL JURY EACH QUESTION HAS BEARING UPON YOUR QUALIFICATIONS AS JURY

		REQUIREMENTS OF LAW FOR COURT ASKED QUESTIONS
926	J	IF ANSWER IS YES PLEASE RAISE YOUR HAND INSTRUCT BOTH SIDES TO AVOID REPEATING QUESTIONS, CAN FOLLOW UP OF COURSE
927	J	IF YOU ARE JURORS THERE WILL BE WITNESSES CALLED TO TESTIFY IF SELECTED WILL WANT TRUTH EACH OF YOU HAS SWORN AN OATH IF YOU FEEL UNCOMFORTABLE ANSWERING IT IS CRITICAL YOU RESPOND
928	J	EXPLAINS CHALLENGES
929	J	YOU HAVE HEARD CHARGE FROM INFORMATION BEGINS COURT'S VOIR DIRE KNOWLEDGE OF CASE
930	J	FIRST 38 JUROR 5 - HEARD ABOUT IT WHEN IT HAPPENED JUROR 6 - READ IN THE BEE
931	J	JUROR 7 - READ IN BONNER DAILY BEE JUROR 9 - FROM NEWSPAPER AND CO-WORKER CLOSE FRIEND TO VICTIM, DIDN'T REALIZE SAME TRIAL WHEN FILLING OUT PAPERWORK; DENIES PARTIALITY
933	J	JUROR 41 - WHEN HAPPENED IAN WORKED FOR DAD'S COMPANY AND LIVED WITH ME; DISCUSSED IN DEPTH WITH HIM, NATURE OF RELATIONSHIP WITH IAN FRIER TO ACT AS JUROR COUNSEL
	LM	NOT NECESSARY
	IR	NO INQUIRY REMOVE FOR CAUSE
	LM	NO OBJECTION
	J	EXCUSES JUROR 41 CALL IN ON WED AFTER 6 PM
934	CLERK	CALLS JUROR 42
	J	JUROR 42 - HAS HEARD OF CASE JUROR 11 - HEARD ABOUT IT WHEN HAPPENED AND ON RADIO JUROR 12 - WORK WITH DECEASED'S SISTER, HASN'T REALLY TOLD ME ABOUT THE CASE; HAVEN'T DISCUSSED IT; REALLY HARD FOR ME TO BE IMPARTIAL, NATURE AND SEVERITY OF CASE COUNSEL?
	LM	DO NOT CARE TO INQUIRE
	IR	CHALLENGE FOR CAUSE
	LM	VOIR DIRE AT THIS POINT JUROR 12 RESPONDS TO VOIR DIRE ANNA BLACKFORD IS HIS SISTER
939	J	OBJECTION TO JUROR BEING EXCUSED
	LM	LEAVE TO YOUR DISCRETION
940	J	DO FIND THAT THIS JUROR MAY NOT ACT WITH IMPARTIALITY - GOING TO EXCUSE YOU
	CLERK	CALLS JUROR 43
	J	VOIR DIRE 43
941	J	JUROR 13 - NEWS AND FRIEND LIVES AT TRAVEL AMERICA JUROR 15 - HAVE READ ABOUT CASE JUROR 16 - READ ABOUT IN DAILY BEE; WORK AT SHERIFF'S OFFICE; DISCUSSED WITH DETECTIVE BURKE PICKED FOR JURY; COUSIN WHO IS POTENTIAL WITNESS - TARA HIGGINS; CAN BE IMPARTIAL
943	J	JUROR 19 - READ ABOUT AND RADIO JUROR 20 - READ IN NEWSPAPER WHEN INITIALLY HAPPENED JUROR 23 - READ IN PAPER AND RADIO, WORKED WITH ELI'S COUSIN JARED IN DRYWALL
945	J	JUROR 24 - READ IN PAPER AND ON SCANNER WHEN AT WORK THAT NIGHT - WORK AT HOSPITAL JUROR 25 - SAME STORY, DAILY BEE AND RADIO; LEARNED MORE ABOUT IT

		TODAY FROM WHAT LAWYER'S HAVE SAID JUROR 29 – READ ABOUT WHEN FIRST HAPPENED JUROR 30 – READ ABOUT IT IN PAPER; IAN FRIER SOMETHING ... DON'T KNOW IF CAN BE IMPARTIAL – POSSIBILITY OF SETTING ASIDE SURE LAWYERS WILL WANT TO ASK YOU QUESTIONS
948	J	JUROR 32 – READ IN PAPER, DON'T KNOW MUCH ABOUT IT CAN BE FAIR JUROR
949	J	NEXT QUESTION – RELATED TO DEFENDANT OR KNOW MR ANDERSON NO ONE HAS RAISED HAND LOUIS MARSHALL RELATED OR KNOW HIM
950	J	JUROR 9 – KNEW HIS WIFE, HAVE BEEN TO HIS HOUSE BEFORE, NO IMPACT JUROR 16 – HAVE MET MR MARSHALL; WORK AT SHERIFF'S OFFICE
951	J	JUROR 28 – KNOW MR MARSHALL, HIS CUSTODIAN FOR SEVERAL YEARS JUROR 33 – WORKED WITH MR MARSHALL FOR SEVERAL YEARS, BELIEVE CAN ACT WITH IMPARTIALITY; WILL GIVE WEIGHT
	J	OBJECTION TO EXCUSE
	BOTH	NO
	J	EXCUSES JUROR 33
953	CLERK	CALLS JUROR 45
	J	VOIR DIRE JUROR 45
954	J	CONTINUE KNOWLEDGE OF MR MARSHALL JUROR 37 – FAMILIAR WITH THRU EMPLOYMENT JUROR 38 – MET MR MARSHALL INDIRECTLY THRU FISH AND GAME CASE
955	J	KNOW MR HOLT JUROR 13 – WENT TO HIGH SCHOOL WITH ELI; SAW HIM 2 YEARS AGO DON'T THINK WOULD AFFECT IMPARTIALITY JUROR 42 – WORKED AT SAME PLACE I DID A LONG TIME AGO GUARDIAN/WARD/ATTORNEY/ETC ETC MR ANDERSON OR MR MARSHALL NO ONE HAS RAISED HAND PARTY TO LAWSUIT NO ONE HAS RAISED HAND BROUGHT SUIT AGAINST OR ACCUSED BY MR MARSHALL NO ONE HAS RAISED HAND UNQUALIFIED OPINION THAT MR ANDERSON IS GUILTY OR NOT GUILTY OF OFFENSE CHARGED
957	J	JUROR 1 – I HAVE KIDS THE THOUGHT OF SOMEONE COMING TO DOOR DRUNK, SEE HIM OVER THERE; CAN FEEL FOR HIM HUSBAND GONE A LOT, WORRY ABOUT IT A LOT BEING ALONE; KINDA THINKING NOT GUILTY, VERY EMOTIONAL ABOUT IT APPRECIATE YOUR CANDOR IN RESPONDING TO THESE QUESTIONS DIFFICULT TIME BEING A JUROR – MAYBE, DIDN'T KNOW ANY FACTS FIRST TIME I'VE HEARD IT LAWYERS WILL ASK YOU MORE QUESTIONS
959	J	JUROR 2 – SAME THING, WHEN READ NAME OF HIS CHILDREN; EXPRESSED UNQUALIFIED OPINION; DON'T BELIEVE I COULD BE FAIR AND IMPARTIAL MR MARSHALL
1000	LM	I CAN SEE YOUR EMOTION, THIS IS A MURDER CASE, NOT A MINOR THING EMOTIONS ARE TYPICAL AND NORMAL IN THESE TYPES OF CASES, NO EVIDENCE PRESENTED AT ALL; LISTENED TO STATEMENTS
1001	LM	MOVE TO STRIKE FOR CAUSE
	IR	LEAVE TO COURT'S DISCRETION
	J	EXCUSE JUROR 2 – REPORT ON WEDNESDAY AFTER 6 PM
	CLERK	CALLS JUROR 46
	J	VOIR DIRE JUROR 46
1002	J	INTRODUCED TO THE LAWYERS AND MR BURKE – ANY RELATED TO LAWYERS OR KNOW THEM
1003	J	JUROR 46 – DEFENSE ATTORNEY CAN'T SAY HOW; KNOW ROBERTSON

		JUROR 11 – KNOW ISABELLA ROBERTSON JUROR 21 – ACQUAINTANCE WITH HOWARD BURKE; HAVEN'T SPOKEN WITH HIM IN SEVERAL YEARS JUROR 16 – DETECTIVE BURKE AND I WORK TOGETHER JUROR 23 – DETECTIVE BURKE, PREVIOUS EMPLOYMENT AT COLDWATER CREEK JUROR 24 – KNOW ISABELLA ROBERTSON – PROFESSIONAL, I'M A NURSE JUROR 28 – ACQUAINTANCE OF ISABELLE'S JUROR 31 – KNOW MR MARSHALL JUROR 35 – KNOW MRS ROBERTSON – DEFENDED ME IN DUI CASE SEVERAL YEARS AGO JUROR 37 – KNOW BOTH ATTORNEYS AND MR BURKE
1008	J	RELIGIOUS OR MORAL POSITION NO ONE HAS RAISED HAND BIAS FOR OR AGAINST MR ANDERSON NO ONE HAS RAISED HAND JUROR 1 DO YOU HAVE BIAS – JUST WHAT SAID BEFORE ASK MR MARSHALL TO STATE NAMES ANTICIPATE WITNESSES AFTER EACH NAME RAISE HAND IF KNOW
	LM	GOING TO GIVE POTENTIAL KATIE RIVERA – BCSO
	J	JUROR 16 – KNOW KATIE, WORK TOGETHER
	LM	CLINT MATTINGLY – BCSO
	J	JUROR 16 – KNOW CLINT AS WELL JUROR 30 – KNOW CLINT WOULD NOT JUROR 31 – BELIEVE I KNOW CLINT MATTINGLY JUROR 28 – FAMILIAR WITH MR MATTINGLY – PROFESSIONAL CAPACITY
	LM	KEVIN BENNETT, ISP
	J	NO ONE BEEN STOPPED BY HIM WHILE DRIVING? NO ONE HAS RAISED HAND OTHER THAN JUROR 59
	LM	KATHRYN ROSE, CORONER
	J	JUROR 24 – KNOW HER AT HOSPITAL
	LM	RONALD COBB – DISPATCHER FOR BONNER COUNTY
	J	NO ONE HAS RAISED THEIR HAND
	LM	LAURA CLAFFEY ALSO DISPATCHER
	J	NO ONE HAS
	LM	DANIEL CHRISMAN – BOTHELL POLICE OFFICER
	J	NO ONE HAS
	LM	SALLY AIKEN – PATHOLOGIST IN SPOKANE
	J	JUROR 28 – MAY KNOW OF THE DISPATCHERS, DON'T KNOW WELL ENOUGH TO KNOW LAST NAMES
1016		WILLIAM SCHNECK – FORENSIC SCIENTIST STATE OF WA
	J	NO ONE
	LM	STUART JACOBSON – FORENSIC TECHNICIAN STATE OF ID
	J	NO ONE HAS RAISED HAND
	LM	IAN FRIER
	J	JUROR 30 – KNOW FROM DOCTOR'S OFFICE JUROR 46 – KNOW 2 OF HIS SISTERS
	LM	JENNIFER ANDERSON
	J	NO ONE HAS RAISED THEIR HAND
	LM	WIFE OF DEFENDANT MANUAL PADILLA – NEIGHBOR IN TRAILER PARK IN SAGLE
	J	NO ONE
	LM	TARA HIGGINS, LIVES IN TRAVEL AMERICA TRAILER
	J	JUROR 16 – RELATION THRU MARRIAGE; DON'T SEE HER VERY OFTEN JUROR 19 – GREW UP IN HOMETOWN OF CLARK FORK JUROR 46 – KNOW FAMILY IN CLARK FORK JUROR 45 – FROM CLARK FORK, KNOW TARA AND HER FAMILY SINCE SHE

		WAS YOUNG
	LM	PATRICK ZIARNICK
	J	JUROR 43 – FRIENDS WITH PARENTS
1021	J	EITHER SIDE VOIR DIRE
	IR	VOIR DIRE NUMBER 43 CHALLENGE FOR CAUSE
1022	LM	INQUIRE
1024	LM	CONTINUES INQUIRY
	LM	OBJECT
	IR	ONE FURTHER QUESTION ZIARNICK IS BROTHER IN LAW BY MARRIAGE
1025	IR	WITHDRAW OBJECTION
	J	HAVE BEEN SITTING FOR A WHILE ADMONISHES PANEL 15 MINUTE RECESS
1025		OFF
1043	J	MR MARSHALL
	LM	CHI ZIARNICK
	J	NO ONE HAS RAISED HAND OTHER THAN PANEL OF
	LM	PETE GEE
	J	NO ONE HAS RAISED HAND
	LM	AUBREY ROUNSVILLE
	J	JUROR 46 KNOW FAMILY IN CLARK FORK, DON'T KNOW HER JUROR 13 – WENT TO HIGH SCHOOL WITH AUBREY MAY HAVE GONE WITH PAT {ZIARNICK} JUROR 46 – NOT GREATER OR LESSER
	LM	TRACY HUBBARD
	J	NO ONE HAS RAISED HAND
	LM	JUSTIN HINES
	J	JUROR 30 – KNOWS?
1046	LM	JOSHUA RUSSELL
	J	NO HAS RAISED THEIR HAND
	LM	THAT'S IT
	IR	ANY OR ALL OF PROSECUTION JENNIFER LEANN ANDERSON
	J	MR ANDERSON'S SPOUSE
	IR	CORRECT SPENCER GREENFECO GREENDYKE, SPENCER
	J	SPENCER GREEDYKE
	IR	CORRECT
	J	NO ONE HAS RAISED
	IR	DON T MILLER
	J	JUROR 28 – RESIDES IN COCOLALLA; WE ARE FRIENDS; FAIRLY CLOSE FRIENDS
	IR	KENNETH MUELLER – FORENSIC PATHOLOGIST FROM BUTTE MT
	J	NO ONE HAS RAISED
	IR	CHARLENE PADILLA
	J	NO ONE HAS RAISED THEIR HAND
	IR	WILLIAM ROSS
	J	NO ONE HAS RAISED THEIR HAND
	IR	COMPLETES THE LIST
1050	J	ACQUAINTED WITH MEMBER OF MR ANDERSON'S FAMILY NO ONE HAS RAISED THEIR HAND
	J	FAMILY MEMBER OR FRIEND CHARGED WITH OR CONVICTED OF MURDER
	JUROR	HOW CLOSE FAMILY WISE, COUSIN
	J	THAT WOULD BE CLOSE ENOUGH

	J	JUROR 9 - 2 ND COUSIN IN NOXIN MANY YEARS AGO - EXPLAINS INCIDENT
1052	J	WORK FOR LAW ENFORCEMENT AGENCY
	J	JUROR 43 - BROTHER SHERIFF IN GEORGIA NUMBER 13 - UNCLE IS SHERIFF IN DAYTONA BEACH FL JUROR 15 - STEPSON POLICEMAN IN ALASKA JUROR 16 - SHERIFF'S OFFICE JUROR 27 - NIECE WORKS CORRECTION DEPARTMENT IN TRI CITIES JUROR 31 - NEPHEW STATE POLICE IN NORTH DAKOTA JUROR 45 - GOOD FRIEND SHERIFF IN ? IDAHO JUROR 40 - CLOSE FRIEND KING COUNTY SHERIFF
1054	J	EXPERIENCE WITH LAW ENFORCEMENT OFFICER AFFECT AS JUROR NO ONE HAS RAISED THEIR HAND PREVIOUSLY SERVED ON JURY JUROR 7 - CRIMINAL HERE IN BONNER COUNTY, 5 OR 6 YEARS AGO; REACHED GUILTY VERDICT, DRUG CASE SAT ON JURIES IN MILITARY JUROR 5 - NOT SURE IF CRIMINAL OR CIVIL, SLC UT 8 YEARS AGO; GUILTY VERDICT JUROR 15 - ABOUT 4 YEARS AGO IN BONNER COUNTY, 2 DUIS ONE GUILTY ONE NOT JUROR 24 - CRIMINAL CASE MOSCOW ID 18 YEARS AGO, GUILTY VERDICT, ARYAN NATIONS FELON IN JUROR 25 - CIVIL TRIAL IN KING COUNTY 16 YEARS AGO JUROR 27 - TRIAL IN ANCHORAGE AK MID 1990S SPOUSAL ABUSE, GUILTY JUROR 29 - 15 YEARS AGO HERE IN BONNER CO, DUI, NOT GUILTY JUROR 38 - SERVED ABOUT 5 YEARS AGO ON 2 TRIALS, CIVIL OVER LOGGING RULED IN FAVOR OF DEFENDANT; 2 ND CRIMINAL TRIAL SUSPICION OF DRUG, DEFENDANT NOT GUILTY JUROR 40 - CIVIL CASE IN KENT WA ABOUT 7 YEARS AGO
1058	J	UNWILLING TO FOLLOW INSTRUCTIONS TO JURY AS TO LAW MUST APPLY - ELABORATES ON APPLICATION OF QUESTION; LAW SHOULD BE A DIFFERENT WAY AND I TELL YOU LAW DIFFERENT WAY, WHICH FOLLOW WHAT LAW SHOULD BE OR WHAT I INSTRUCT YOU IS THE LAW
1100	J	NO ONE HAS RAISED THEIR HAND OUTCOME OF THIS LAWSUIT OR PRINCIPAL QUESTION INVOLVED
	J	NO ONE HAS RAISED
	J	IF SELECTED UNWILLING OR UNABLE TO RENDER VERDICT BASED UPON EVIDENCE AND LAW
1101	J	NO ONE HAS RAISED THEIR HAND ANY OTHER REASON CAN NOT GIVE UNDIVIDED ATTENTION
	J	NO ONE HAS RAISED THEIR HAND LAST QUESTION, CATCH ALL QUESTION ANY REASON CAN'T SIT AS JUROR IN THIS CASE, I NEED TO KNOW JUROR 30 BECAUSE OF KNOWLEDGE OF ONE OF WITNESSES
1102	J	AS MENTIONED EARLIER - YES MR MARSHALL
	LM	NUMBER 30 - IAN FRIER ; EMOTIONAL
	IR	DISQUALIFY FOR CAUSE
	LM	NO OBJECTION
	J	EXCUSES JUROR 30
	CLERK	CALLS JUROR 47
	J	VOIR DIRE JUROR 47 - VICTIM WAS FRIEND; WOULD BE BIASED OBJECTION TO EXCUSED
	BOTH	NO
	J	EXCUSES JUROR 47
	CLERK	CALLS JUROR 48
	J	VOIR DIRE JUROR 48

1106	J	JUROR 1
1107		JUROR 1 - I'M FINE
	J	CONTINUES VOIR DIRE NO ONE HAS RAISED HAND
1107	LM	BEGINS VOIR DIRE
1108	LM	JUROR 38 WE KNOW EACH OTHER; PROSECUTED YOU FOR TRAPPING VIOLATION - NO RESENTMENT, CLEVER REMARKS; CASE HAS NOTHING TO DO WITH YOU JUROR 9 - KNOW ME, KNOW MY WIFE JUROR 23 - CLIENT OF MS ROBERTSON; CHARGED WITH DUI, JEFF JAYNE
1111	LM	LAW ENFORCEMENT JUROR 22 - NO PERSONAL EXPERIENCE, CHILDREN HAVE; HAVE BIAS AGAINST SANDPOINT AND CD'A POLICE DEPARTMENTS; INDIVIDUALS IN LAW ENFORCEMENT - SHERIFF AT THAT TIME/POLICE CHIEF LOCKWOOD
1113	J	DID I HEAR SOMEONE ELSE RESPOND
		JUROR 22 - MY HUSBAND
	LM	CHIEF OF POLICE NOT SHERIFF JUROR 29 - TRAFFIC STOP AT CHAMBER OF COMMERCE, VERY RUDE, DETAINED US A LONG TIME; LODGED A COMPLAINT; SHE MENTIONED HE HAD BEEN HAVING CALLS AND SHE WOULD TAKE CARE OF IT - LET HIS SUPERVISOR KNOW; BY THE CHAMBER OF COMMERCE; CAME FROM SANDPOINT END JUROR 35 - PROBLEM WHEN PULLED OVER TOO MUCH WHITE LIGHT FROM TAIL LIGHT; OFFICER TWISTED WORDS; FOUGHT THE CASE; HOLD ANIMOSITY TOWARDS OFFICERS IN MY CASE; DON'T KNOW IF TRUE IN GENERAL; BONNER COUNTY; PULLED OVER BY DUFORT ROAD; 5 YEARS AGO
1116	J	ANYONE ELSE HAVE A CELL PHONE IF YOU DO HAVE ONE AND IT GOES OFF IT WILL BE CONFISCATED
1117	LM	CONTINUES JUROR 1 - NOT ONLY SAID ABOUT FEELING SYMPATHY, KIDS, DEFENDING YOURSELF; ANTI ALCOHOL, HAVE A LOT OF UNCLES; DESTROYS FAMILIES, NOTHING GOOD COMES FROM ALCOHOL; WITNESSES THEY WERE DRINKING, HOW HANDLE THAT - PART OF REACTION EARLIER, FACT THEY WERE DRUNK AND OVER THERE, ONE OF MY STRONG BELIEFS, ANTI DRINKING; CAN BELIEVE SOMEONE WHO'S BEEN DRINKING - DON'T THINK SO; BIAS AGAINST WITNESSES IF DRINKING; DON'T TAKE TO HEART, BEEN AROUND PEOPLE WHO DRINK, DON'T BELIEVE THEM; THEY DON'T KNOW WHAT THEY'RE DOING//DON'T BELIEVE THEM BECAUSE OF ALCOHOL, NOT LIAR, DON'T TRUST PEOPLE//TESTIMONY BACKED UP BY PHYSICAL EVIDENCE - MIGHT BE ABLE TO BELIEVE EVIDENCE, BUT NOT BELIEVE PERSON//GRAPHIC EVIDENCE - EMOTIONAL PART OF IT PRESUMING SEE REAL PHOTOGRAPHS, HOW HANDLE - EMOTIONALLY DOES THAT MEAN START CRYING - I DO, I CRY, INSTANTLY JUDGE WHAT I'M SEEING AS THE TRUTH - IT'S HARD TO EXPLAIN; JUDGMENTAL SET PREJUDGMENT ASIDE, SOMETIMES DEPENDS ON SITUATION, WHAT SEE DO WITH PEOPLE DRINKING - HAVE HARD TIME WITH DRINKING
1122	LM	MOVE TO STRIKE FOR CAUSE
	IR	NO OBJECTION
	J	EXCUSES JUROR 1
	CLERK	CALLS JUROR 49
	J	VOIR DIRE JUROR 49
	LM	RESUMES VOIR DIRE
	LM	JUROR 46 - FROM CLARK FORK; HOW KNOW POTENTIAL WITNESSES; GRADUATED FROM HIGH SCHOOL WITH ONE OF IAN FRIER'S SISTER MARITA FRIER AND AMY
1125	LM	JUROR 3 - NOT A GUN OWNER; HAVE USED FIREARMS, IN MILITARY; MILITARY POLICE; DON'T OWN GUNS NOW, NOT ALLOWED TO - TOLD NOT

		SUPPOSED TO HAVE GUNS, DON'T HAVE ANYTHING AGAINST; TOLD THAT IN 1970; RETIRED – PRIOR TO THAT DID DIFFERENT THINGS
1126	LM	JUROR 4 – VICTIM OF CRIME; DOMESTIC TYPE CRIME, 10 YEARS AGO; DIDN'T GO THRU SYSTEM; DIDN'T PROSECUTE – MY FAULT TOO; BOYFRIEND; EASIER TO LET IT GO; COULD SEE THINGS FROM BOTH SIDES, SHOULDN'T GET PHYSICAL; DO PRETTY GOOD WITH EMOTIONAL THINGS
1129	LM	JUROR 8 – HAVE A RIFLE RANGE; 365 YARDS; RIFLES, PISTOL, AND CANON – 2 OF THEM, SHOOT BILLIARD BALLS, HALF SCALE NAPOLEON; FAMILIAR WITH HAND GUNS, REVOLVERS, SINGLE ACTION – EXPLAINS, SAFETY ON GUN SINGLE ACTION; WAS IN MILITARY GREW UP IN MN HUNTING; ELABORATES ON HUNTING; ENJOY HUNTING, NO PLEASURE OUT OF KILLING
	LM	JUROR 42 – GUN OWNER; SELF DEFENSE – HAVE RIGHT TO SELF DEFENSE; EVERYBODY SHOULD HAVE RIGHT TO DEFEND THEMSELVES; RIGHT TO BEAR ARMS
1134	LM	JUROR 6 – FRIENDS WITH ATTORNEYS HERE IN TOWN; JUDGE VERBY AS WELL; BILL BERG AND STEVE VERBY; TEACHER AT SAGLE ELEMENTARY; FEELINGS ELICITED; WOULD WANT TO PROTECT MY CHILDREN; WANT TO HEAR FACTS JUROR 5 – SERVED ON JURY, ADULT SIBLINGS BATTERY; FOUND BOTH GUILTY OF DISTURBING THE PEACE
1137	LM	JUROR 11 – DOMESTIC VIOLENCE ISSUES AS WELL, ISABELLA ROBERTSON REPRESENTED HUSBAND; LIVED IN COCOLALLA; CONVICTED OF A FELONY, WENT THRU WHOLE PROCESS; NOT CALLED AS WITNESS, MAY HAVE JUST PLED GUILTY; WAS SUPPORTIVE OF BOTH SIDES, UNFORTUNATE BUT BEST THING TO HAPPEN TO BOTH OF US; SHADES OF GRAY
1139	LM	JUROR 43 - DON'T HAVE YOUR QUESTIONNAIRE – FROM MN; LIVED HERE 12 YEARS; COULD CARE LESS ABOUT THE TWINS; LIVE IN SAGLE NOW; LIVE ½ MILE FROM TRAVEL AMERICAN TRAILER PARK; DON'T KNOW FACTS FROM PERSONAL KNOWLEDGE; NOT MUCH WEIGHT ON NEWSPAPER ARTICLES; DAILY BEE RUN WITH THINGS TOO QUICKLY; HOLD THEM RESPONSIBLE; HUSBAND OWNS SHOTGUN, NOT A HUNTER
1142	LM	JUROR 14 – FROM PRIEST RIVER; GUN OWNER; SELF DEFENSE, RIGHT TO DEFEND; JURORS 1 AND 2 REACTIONS; WOULD LIKE TO HEAR THE FACTS – RIGHT COMES FROM 2 ND AMENDMENT; YOU AS A PERSON SHOULD BE ABLE TO DEFEND YOUR FAMILY, PROPERTY; EVERYBODY SHOULD HAVE 2 ND AMENDMENT RIGHT; DEFENSE HAS TO BE REASONABLE
1144	LM	JUROR 16 – WORK IN SHERIFF'S OFFICE, ACCOUNTING – STAFF ACCOUNTANT; NOT SPECIFIC ABOUT THIS CASE
1145	LM	JUROR 19 – FROM CLARK FORK, KNOW TARA HIGGINS; OWN RIFLE, USED TO HUNT; SELF DEFENSE – BELIEVE IN TO DEFEND MYSELF
1146	LM	JUROR 21 – KNOW DETECTIVE BURKE, HAVEN'T SEEN IN QUITE A WHILE, HAS PROPERTY NEAR WHERE LIVE OFF RAPID LIGHTENING; SELF DEFENSE – BELIEVE IN SELF DEFENSE; WANT TO DEFEND MY CHILDREN, AT THE SAME TIME WE DON'T OWN ANY FIREARMS, WE'RE VEGETARIANS; IF SOMEONE HELD FIREARM INTENT TO USE IT; TRUST THE LORD WITH THOSE KINDS OF THINGS; LIVE IN REMOTE AREA
1147	LM	STRONG FEELINGS ABOUT ALCOHOL
	LM	JUROR 21 – DOESN'T DRINK, ALCOHOLISM IN HUSBAND'S FAMILY; I LISTEN TO PEOPLE WHO HAVE BEEN DRINKING, DON'T KNOW IF BELIEVE THEM DEPENDING HOW MUCH ALCOHOL; NO REASONING MORE ALCOHOL MORE DIFFICULT TO BELIEVE; MAYBE ABLE TO HANDLE DON'T KNOW CONSIDER THEM MORE CREDIBLE
1149	LM	JUROR 19 – ABOUT DRINKING, HAVE A FEW BEERS NOW AND THEN, GOES FOR MONTHS WITHOUT; IMPAIRMENT IF OBLITERATED AND CAN'T STAND UP; YOU CAN DRINK AND STILL KNOW
1150	LM	JUROR 11 – EFFECTS OF ALCOHOL DIFFERENT PEOPLE DIFFERENT WAYS; IF PRONE TO LYING ARE GOING TO ANYWAY; THINK THEY'RE INVINCIBLE; DO THINGS WOULDN'T DO OTHERWISE

		WOULD LISTEN TO WHAT THEY SAY, EVIDENCE PRESENTING; SOMEBODY ELSE TO BACK THEM UP; NOT ONCE A LIAR ALWAYS A LIAR, BUT WHEN COMES TO ALCOHOL
1152	LM	ALCOHOL FIRST ROW – NO ONE THIRD ROW – JUROR 25 – SOMETHING TO CONSIDER, HOPE CORROBORATED BY OTHER EVIDENCE; DISHONESTY OR DRINKING BOTH; DELIBERATION FRUSTRATION – HAVE BEEN A JUROR BEFORE – CIVIL CASE BREACH OF CONTRACT
1155	LM	JUROR 29 – HUSBAND GUN OWNER; NOT A HUNTER – NAMES WEAPON – SELF DEFENSE JUROR 48 – FROM PRIEST RIVER; GUN OWNER; LIKE TO HUNT; OWN PISTOLS; LIKE TO TARGET SHOOT; NO REVOLVERS; FAMILIAR TO AN EXTENT; SELF DEFENSE – DEPENDS ON WHAT IT IS; DRINKING ALCOHOL, GO OUT AND HAVE A COUPLE AND BE COHERENT; BLASTED NOT ABLE TO BE AS COHERENT; WANT TO HEAR WHAT HAPPENED
1200	J	NOW TIME FOR NOON RECESS ADMONISHES PANEL RECESS UNTIL 1:15 PM
1202		OFF
116	J	MR MARSHALL CONTINUE
	LM	JUROR 31 – ATTORNEY IN TOWN; DAUGHTER DID UNPAID INTERNSHIP WITH BCSO – 5 YEARS AGO; AS ATTORNEY NOT MORE DIFFICULT TO BE A JUROR; HAVE BEEN BOTH PROSECUTOR AND DEFENSE ATTORNEY; MEDIATION, ENTIRELY CIVIL FOR LAST 5 YEARS
118	LM	JUROR 49 – DRAFTSMAN, DESIGN CIRCUIT BOARDS; FROM IOWA; IN BONNER COUNTY SINCE 2002; LOVE IT HERE; A HUNTER, RIFLE; GREW UP IN MIDWEST HUNTED A LOT; MOTIVE – DON'T RECALL QUESTION BUT REMEMBER WORD MOTIVE; UNDERSTAND MOTIVE IS INTENT; WHY YOU DO SOMETHING; IMPORTANCE – DEPENDS ON CIRCUMSTANCES CRIMINAL JUSTICE SYSTEM UNDERSTANDING PROVE MOTIVE – AS FAR AS? DO I HAVE TO PROVE WHY SOMEBODY DID SOMETHING – NO NOT PART OF ELEMENTS TO APPLY FACTS TO OK TO SET MOTIVE ASIDE – SURE; NICE TO KNOW WHY BUT NOT NECESSARY; EVIDENCE CAN SOMETIMES SHOW WHY SOMEONE DID SOMETHING; OTHER TOPICS ALCOHOL, ETC. – ALCOHOL NO FEELINGS, DON'T THINK RIGHT TO BE DRUNKEN; SOMEONE DRANK TO MUCH NOT NECESSARILY NOT BELIEVABLE; DISCERN WHAT THEY'RE TRYING TO SAY
122	LM	JUROR 32 – LIVED HERE 15 YEARS; MARRIED, HAVE ANTIQUE GUNS; NOT ANTI-GUN, NO INTEREST, HUSBAND DOESN'T EITHER; THERAPEUTIC SCHOOL IN BONNERS FERRY, KIDS 6 TO 12; CONCERN AS JUROR IN TERMS OF JUGGLING
124	LM	JUROR 45 – FIREARMS – EVERYONE HAS RIGHT TO OWN ONE, I OWN ONE; DO LIKE TO SHOOT YOURSELF – HAVE RIGHT TO PROTECT MYSELF; TOOK JUDO, KARATE YEARS AGO; NAMES DOG TYPES FEELINGS OF PRIOR JURORS 1 AND 2 – WANT TO LISTEN TO FACTS FIRST
126	LM	JUROR 34 – NO ANTI-LAW ENFORCEMENT FEELINGS; HAVE CURRENT CHARGES AGAINST ME – DUI; NO ILL FEELINGS; NO BIAS AGAINST PROSECUTOR'S OFFICE; JOB OF LAW ENFORCEMENT – THINK REGARDS TO MY OFFENSE APPRECIATIVE THEY ARE ADDRESSING THAT PROBLEM; CHILD CARE CONCERNS, IN LAST WEEK DIDN'T WANT TO SOUND LIKE A BROKEN RECORD, LIVE 50 MINUTES AWAY, CAN'T AFFORD CHILD CARE, HARDSHIP BEING HERE; DAY TO DAY ARRANGEMENTS; DEPENDING ON A NUMBER OF PEOPLE; NOT CONCERNED ABOUT SAFETY BUT CONSTANT SEARCH FOR CHILD CARE; CAN KEEP OUT OF MIND AND CONCENTRATE ON WHAT'S GOING ON IN COURT ROOM
129	LM	MOTIVE QUESTION – EVERYBODY HEARD ANYONE THINK MOTIVE HAS TO BE PROVEN TO PROVE CRIME JUROR 31 – SOME CRIMES MOTIVE IS AN ELEMENT IN SPECIFIC INTENT

		IF INSTRUCTED BY JUDGE ABLE TO FOLLOW THAT; MOST CRIMES MOTIVE NOT SPECIFIC INTENT JUROR 25 – COMMENT ON MOTIVE
	LM	SENTENCING NOT A CONCERN OF JURORS
	LM	JUROR 25 – WHAT LAW IS IN OTHER STATES IT IS A CONCERN OF JURY BUT NOT IDAHO
131	LM	JUROR 35 – CLIENT OF MS ROBERTSON – 5 YEARS AGO, 4 YEARS SOMETHING LIKE THAT; FIREARMS OWNER, LIKE TO HUNT; ONLY FOR HUNTING PURPOSES, RIFLE ONLY, BIG GAME JUROR 36 – PRIEST RIVER; WORK AT LITEHOUSE; NO ISSUES WITH BEING JUROR; NOT A GUN OWNER, NEVER HUNTED
134	LM	JUROR 37 – WORK FOR DHW; COLLEGE CLASSES PSYCHOLOGY, DON'T NEED TO KNOW WHY SOMEBODY DID SOMETHING; EVERYBODY HAS RIGHT TO OWN A GUN; SITUATION OK TO PROTECT MYSELF; CIRCUMSTANCES
136	LM	JUROR 38 – GUN OWNER; 2 ND AMENDMENT BELIEVER; SELF DEFENSE CAN TAKE MANY FORMS; DOESN'T ALWAYS REQUIRE EXTREME; LIFE IN IMMEDIATE DANGER; CONCEALED WEAPONS PERMIT; 75 MILES TO COURTHOUSE; VIEWS ON ALCOHOL – IT'S FINE, 2 ND AMENDMENT RIGHT WANT TO DRINK YOU CAN DRINK BUT POINT IT BECOMES A PROBLEM; A SOCIAL THING, PART OF BEING AN AMERICAN UNLESS ORDERED THAT YOU CAN'T – COURT ORDERS
139	LM	JUROR 39 – ALCOHOL, IT'S LEGAL BUT CAN BE ABUSED; WHEN PEOPLE GO TO FAR JUDGMENT IMPAIRED, OUT LOOK ON CIRCUMSTANCES CAN BE IMPAIRED AS WELL; POINT WHERE THEY ARE NOT CREDIBLE; HAVE DRANK MORE THAN I SHOULD HAVE ON OCCASION – IMPAIRED MY JUDGMENT; IMPAIRED OUTLOOK; WOULD HAVE TO LISTEN TO ASCERTAIN WHAT THEY REALLY SAW PLUS OTHER TESTIMONY; DON'T OWN ANY FIREARMS; MY FAMILY DOES, WE'RE HUNTERS; PEOPLE HAVE RIGHT TO OWN AND BEAR ARMS AND DEFEND THEMSELVES IF NECESSARY
142	LM	JUROR 40 – DRIVE BUS, SPECIAL NEEDS KIDS TO CD'A; WAS IN MARINE CORP; 1959 TO 1965; RADIO TELEGRAPH OPERATOR; HAD TO SHOOT FIREARMS IN MILITARY; USE FIREARMS SINCE SERVICE, RIFLES, HANDGUNS, SHOTGUNS; SELF DEFENSE
144	LM	JUROR 18 – 25 YEARS IN BONNER COUNTY; HUNTER – FAMILY HUNTS; ENJOY SHOOTING A LITTLE BIT, RECENTLY STARTED TO HANDLE THEM TO GET OVER FEAR OF THEM; DIDN'T UNDERSTAND THEM; BROTHERS IN NEW YORK STATE; FAMILY WENT HUNTING IN NEW YORK STATE; RESPECT MIGHT BE BETTER WAY OF PHRASING IT; RECENTLY LEARNED HOW TO USE FIREARM; TOOK HANDGUN SAFETY CLASS; SINGLE, REVOLVER, SEMI
147	LM	JUROR 7 – SELF DEFENSE – INTEGRAL PART OF LIFE, BELIEVER IN 2 ND AMENDMENT; NATURAL LAW
147	LM	PASS FOR CAUSE
	J	MS ROBERTSON, YOU MAY PROCEED
148	IR	DISCUSSION
149	IR	SELF DEFENSE; INFORMATION THAT WAS READ PRESUMPTION OF INNOCENCE
	IR	28 – ASSUMPTION YOU DIDN'T DO IT RIGHTS FROM CONSTITUTION; AS A HUMAN BEING CITIZEN OF UNITED STATES; PROSECUTION BURDEN OF PROOF DEFENSE DOESN'T HAVE TO PROVE A THING – NOT OUR BURDEN BURDEN ALL LIES ON MR MARSHALL – HE HAS TO SHOW WHY, STEP BY STEP, HE BELIEVES MY CLIENT IS GUILTY PROTECTION OF PRESUMPTION OF INNOCENCE HOW MUCH EVIDENCE ON A SCALE OF 1 TO 10 WOULD YOU REQUIRE PROSECUTION TO PRESENT TO YOUR JURY -
151	IR	JUROR 18 – REASK QUESTION PLEASE – REPHRASES – CAN'T PUT IT ON A SCALE THAT WAY; HOW KNOW IT'S A 100 PERCENT; HOW KNOW WHEN HAVE 100 PERCENT OF PIECES; WHEN CONVINCED BEYOND REASONABLE DOUBT

		WOULD LIKE SOLID EVIDENCE; EYE WITNESS – PHYSICAL EVIDENCE
153	IR	PROSECUTION HAS TO SHOW, REASONABLE DOUBT, JUDGE WILL INSTRUCT, REASONABLE DOUBT IF CHARGED WITH A CRIME ON SCALE OF 1 TO 10 OR WHAT PERCENTAGE REQUIRED TO SUPPORT
	IR	JUROR 3 – 9; KINDS OF EVIDENCE: COMES IN DIFFERENT FORMS, MORE THAN ONE KIND
154	IR	JUROR 6 – WOULD LIKE 10 JUROR 7 – WOULD WANT ENOUGH TO PROVE GUILT, CAN'T TELL ON SCALE OF 1 TO 10, BUT HAS TO BE OVERWHELMING EVIDENCE
155	IR	JUROR 42 – DIFFICULT TO PUT DOWN IN PERCENTAGE; SOME EVIDENCE CLEARER THAN OTHERS, HAVE TO GO WITH A LOT OF WHAT TYPE OF INFORMATION GIVEN TO ME JUROR 15 – 10; WOULD LIKE TO HAVE YOUR REASONABLE DOUBT TO HAVE VERY LITTLE DOUBT LEFT EXPERIENCE WITH WEAPONS – ANY BEEN HUNTING RECENTLY – THIS YEAR OR LAST
157	IR	JUROR 14 – INTO BEAR COUNTRY; NO SPECIAL WEAPON; NOT CONCERNED ABOUT GRIZZLIES – NO BECAUSE HAVE GUN WITH ME JUROR 16 – NO PARTICULAR WEAPON FOR BEARS JUROR 38 – CARRY 357 MAGNUM WHEN HUCKLEBERRY PICKING OR INTO BEAR COUNTRY; WHY THAT WEAPON: ONE OF 3 REQUIRED TO TAKE INTO BEAR COUNTRY, POWERFUL WEAPON ANYONE ELSE CARRY SOMETHING JUROR 25 JUROR 37 CARRIES SAME THING
159	IR	FAMILY FRIENDS THAT ARE IN LAW ENFORCEMENT; THOSE OF YOU THAT DO WOULD YOU GIVE SPECIAL WEIGHT TO SOMEONE WHO'S IN LAW ENFORCEMENT AS OPPOSED TO A LAY WITNESS
200	IR	JUROR 49 – NO, DON'T HAVE ANYBODY IN MY FAMILY IN LAW ENFORCEMENT, TESTIMONY EQUAL TO ANYONE ELSE'S JUROR 3 – KNOW A LOT OF PEOPLE IN LAW ENFORCEMENT – WORK WITH YOUTH GROUP IN PRIEST RIVER, MOST ARE REALLY GOOD PEOPLE DOING DANGEROUS JOB, DOESN'T MEAN THEY ARE ALL GOOD
201	IR	JUROR 4 – MORAL OR RELIGIOUS FEELINGS WITH HOW VIEW EVIDENCE; I'M A CHRISTIAN WOULD HAVE TO KNOW WHAT HAPPENED; MURDER'S WRONG BUT HAVE TO SEE THE EVIDENCE; MORAL ASPECT; DO NOT HAVE BIAS AGAINST CLIENT
202	IR	JUROR 5 – PRIOR JURY TRIAL - JUST TWO PEOPLE POINTING FINGER AT EACH OTHER; WE DIDN'T BELIEVE ONE OVER THE OTHER, LESSER CHARGE WE COULD GO FOR NOTED FRIENDS WITH DION HELLER – PROBATION OFFICER, AFFECT HOW SEE LAW ENFORCEMENT PEOPLE – NO; MORE CREDENCE – NO
203	IR	JUROR 6 – MORE CREDENCE TO LAW ENFORCEMENT OFFICER – NO
204	IR	WILL HEAR ABOUT FAMILY LIFE; FIGHTS MAKE UP; HAVE 2 CHILDREN HOW MANY MARRIED OR RELATIONSHIP
204	IR	JUROR 43, FIGHT WITH HUSBAND, NOT GOTTEN LOUD, HE NEVER FIGHTS BACK JUROR 18 – WE DON'T REALLY FIGHT, WE DISAGREE JUROR 19 – I'M SINGLE, GOING TO STAY THAT WAY JUROR 32 – LOUD DISCUSSION – SURE, NOT FIGHT FIGHT
205	IR	MISCHOICE OF WORDS; CAN HEAR THINGS IN APARTMENT COMPLEX JUROR 21 – DISCUSSIONS, DON'T KNOW HOW LOUD THEY GET JUROR 20 – YES JUROR 31 – YES, PRESSURE CERTAINLY; LIVED IN APARTMENT, DON'T RECALL HEARING NEIGHBORS, LONG TIME AGO
207	IR	JUROR 7 – COURT MARSHALL – DESCRIBES DUTIES; SAME TYPE OF DECISIONS AS A CIVILIAN JURY JUROR 8 – HAVE 2 CANNONS – I COLLECT CIVIL WAR MEMORABILIA, ONE

		ORIGINAL AND ONE REPRODUCTION OF CANNON; TOOK 44 MAGNUM - SHORT RIFLE TO HUNT BEAR
209	IR	JUROR 9 - CO-WORKER WHO IS ACQUAINTED WITH MAN WHO GOT SHOT; TALK TO HER ¼ TIMES A WEEK; DISCUSSED AT FIRST WHEN IT HAPPENED; SAID NOTHING TO BIAS ME AGAINST DEFENDANT; CAN'T REALLY REMEMBER WHAT SHE SAID; READ MORE IN THE PAPERS
210	IR	JUROR 11 - REPRESENTED YOUR HUSBAND, SET ASIDE FEELINGS - YES JUROR 43 - NOT SURE RELIGIOUS/MORAL BELIEFS MIGHT INTERFERE - NOT COMFORTABLE JUDGING OTHER PEOPLE "THERE BUT FOR THE GRACE OF GOD" YOU KNOW; INTERFERE WITH GIVING FAIR TRIAL TO MR ANDERSON - HOPE NOT; I DON'T KNOW WHAT YOU WANT ME TO SAY, NEVER BEEN A JUROR IN MY LIFE; WILL IT GET IN THE WAY - NEVER BEEN IN THIS POSITION, CAN'T SAY; BROTHER DEPUTY IN GA, SPECIFIC VIEWS ON LAW ENFORCEMENT - NO; BELIEVE LAW ENFORCEMENT MORE - NO
213	IR	JUROR 13 - WENT TO SCHOOL WITH ELI AND ? - YEP KNOW WHO THEY ARE, PROBABLY SAW ELI YEAR/YEAR HALF AGO, JUST ACQUAINTANCES; DON'T KNOW OTHER FAMILY; TIME IN HIGH SCHOOL INTERFERE - NO
214	IR	NUMBER 14 - FELT CRIMINAL JUSTICE SYSTEM GIVES TOO MANY CHANCES TO CRIMINALS - TOO MANY PEOPLE GO TO JAIL, NEXT THING YOU KNOW THEY'RE BACK OUT ON STREET; DON'T THINK DOING CITIZEN FAVORS BY LETTING THEM BACK OUT IN SOCIETY TRIAL PROCESS - NEVER BEEN IN A CRIMINAL TRIAL; A LOT OF PEOPLE GETTING REPRESENTED - SYSTEM NEEDS A LOT OF HELP
215	IR	ALSO MENTIONED PROBLEM SOMEONE LIED ON PREVIOUS OCCASION NOT BELIEVING ANYTHING SAID NEXT TIME - IF IT WAS A FLAT OUT LIE WOULD HAVE TROUBLE BELIEVING THEM AGAIN; A MISTAKE, STRETCH OF THE TRUTH BUT IF IT'S A FLAT LIE, THAT'S NOT RIGHT
216	IR	JUROR 15 - VIEW ON CRIMINAL JUSTICE SYSTEM - DESIGNED TO WORK BUT NOT ALWAYS WORK WELL - THINK IT'S A GOOD SYSTEM, I GUESS I KINDA UNDERSTAND WHAT HE SAID, PEOPLE ON STREETS THAT SHOULDN'T BE ON THE STREETS - THAT'S WHAT BOTHERS ME ANYTHING HOLD AGAINST DEFENDANT - NO SON ALASKA POLICE OFFICER, VIEWS - NOT FLAWLESS, THEY CAN MAKE MISTAKES NOTED PROBLEM IF TRIAL WENT LONGER THAN 8 DAYS; CONCERN I'M ONLY PERSON FOR BUSINESS, DEADLINES AND PAYROLL - I'LL WORK AROUND IT
218	IR	JUROR 16 - NO BIAS? WELL I KNOW THEM BECAUSE OF WORKING RELATIONSHIP; NOT BUDDY BUDDY, I'M STAFF ACCOUNTANT; RELATION TO WITNESS, NEVER BEEN CLOSE, HUNG OUT AS LITTLE KIDS, BELIEVE NOT BIASED IF ON JURY COMES IN NOT GUILTY BE COMFORTABLE STILL WORKING AT SHERIFF'S OFFICE THEN JURY WASN'T PROVIDED WITH ENOUGH EVIDENCE TO CONVICT
220	IR	JUROR 18 - UNSOLVED MURDER, NOT A CLOSE PERSONAL FRIEND, NEWLY MARRIED WHEN IT HAPPENED; NOT AN ISSUE - UNSOLVED BECAUSE THERE WAS NO EVIDENCE
221	IR	JUROR 19 - MORE CREDENCE TO LAW ENFORCEMENT - NO CLOSE FRIENDS - KNOW SHERIFF, DARRYL WHEELER, WE'RE PRETTY GOOD FRIENDS; KNOWN HIM A FEW YEARS; WENT TO FEW BALL GAMES TOGETHER
222	IR	JUROR 20 - BROTHER WAS HARMED - HE LIVES IN CHICAGO, SOMEBODY BROKE IN BUT NO HARM TO HIM OR FAMILY- UNSOLVED NO BIAS
223	IR	JUROR 21 - MORAL AND SPIRITUAL FOUNDATIONS RE JUDGMENT - INTERFERE WITH STANDING IN JUDGMENT OF ANOTHER PERSON - NO
224	IR	JUROR 22 - DAUGHTER HARMED BY SOMEONE, SATISFIED WITH HOW HANDLED - YES ALSO STATED COULD USE IMPROVEMENT - BASIC OPINION PEOPLE IN JAIL

		WHO SHOULDN'T BE – NON-VIOLENT CRIMES – FOR EXAMPLE SMOKING MARIJUANA WOULD BE NON-VIOLENT CRIME
225	IR	JUROR 24 – KNOW ME, WAS HER PATIENT IN HOSPITAL; SAME FOR NUMBER 46 ALSO; VICTIM OF 2 BURGLARIES, NOT IN THIS CITY; NEVER FOUND WHO IT WAS, IN SEATTLE; FACT OF LIFE; SUBPOENAED TO TESTIFY IN MOSCOW – THAT WAS OK
227	IR	NUMBER 25 – COMPASSION FOR FAMILY OF VICTIM, BIAS – NOT ANY MORE COMPASSION ON BOTH SIDES; ASKED ABOUT LAW ENFORCEMENT TESTIMONY, EXPERT TESTIMONY DEPENDS ON TESTIMONY MIGHT HOLD TO HIGHER STANDARD IF EXPERT IN ERROR RECEPTIVE TO ANOTHER OPINION – ABSOLUTELY ALSO NOTED YOU HOME SCHOOL, HAVING A TRIAL GOING TO CAUSE SIGNIFICANT PROBLEMS – NO WORKED OUT
229	IR	NUMBER 27 – HUSBAND NRA; I OWN 2, HUNT; DON'T GO BEAR HUNTING; JUST CARRY MY RIFLE, DON'T TAKE ANYTHING WHEN GO HUCKLEBERRY PICKING; FIRST COUSIN'S CHILD KIDNAPPED AND MURDERED, NEVER SOLVED; HAVE NOTHING TO DO WITH THIS TRIAL; NIECE IN LAW ENFORCEMENT – TESTIMONY – PEOPLE ARE PEOPLE
230	IR	JUROR NUMBER 29 – CONCERNS ABOUT CLASS AND HAVING SUBSTITUTE TEACHERS IN CLASS – WILL BE ON MIND; DISTRACT FROM CASE -
231	IR	CHALLENGE FOR CAUSE
	J	MR MARSHALL INQUIRE?
	LM	BRIEFLY JUROR 29 – 2? KINDERGARTNERS; PROVISIONS FOR SUBSTITUTES; WE DO HAVE, SOMETIMES HARD; DAY TO DAY; DO NOT HAVE TO FIND OWN SUBS WORRIED ABOUT THERE ARE SUBSTITUTES AND THERE ARE WARM BODIES IN CLASS; WORRIED ABOUT GROUND ZERO; WILL BE THINKING ABOUT THAT HAVE TO FOCUS ON KIDS
233	LM	YOUR DISCRETION JUDGE
	J	UNDER THESE CIRCUMSTANCES, JURORS ANSWERS GOING TO ALLOW HER TO BE EXCUSED
	CLERK	NUMBER 50
234	J	VOIR DIRE JUROR 50 – READ ABOUT IN PAPER; ONCE I GOT PACKET, DIDN'T READ HAVING HEARD/READ ABOUT CASE, HAVE STATE OF MIND – DO NOT CAN ELIMINATE – YES WORK AT FOOD BANK, ELI HOLT, WITNESSES, ETC., ARE CLIENTS OF FOOD BANK; HAVE MET CAUSE YOU DIFFICULTY – DON'T THINK SO; KEEP THINGS FRIENDLY BUT BUSINESSLIKE BASIS DON'T KNOW LAWYERS, MAY HAVE MET 5 OR 6 OR WITNESSES MORAL OR RELIGIOUS – NO BIAS FOR OR AGAINST – NO FOR OR AGAINST STATE – NO KNOW LAW ENFORCEMENT – NO
237	LM	JUROR 50 – WORK WITH SOMEONE WHO USED TO WORK FOR LOUIS MARSHALL BELIEVE IN 2 ND AMENDMENT; GREW UP IN SEATTLE DON'T DRINK EXCESS IN ANYTHING IS A PROBLEM ABSTAINED WHOLE LIFE; NEVER DRANK BEFORE DON'T RELATE TO SOMEONE – CAN JUDGE FOR CREDIBILITY
239	LM	NOTHING FURTHER
240	IR	JUROR 50 – EXPECTATION OF TESTIMONY – BELIEVE THEY CAN MAKE MISTAKES, BUT HOLD TO HIGHER STANDARD; EXPECTATION – AMEND TO ANYONE IN TRIAL HELD TO HIGHER STANDARD PRESUMPTION OF INNOCENCE – INNOCENT UNTIL PROVEN GUILTY INCONTROVERTIBLE EVIDENCE; GRAY AREA TO SOME PEOPLE BUT ABSOLUTELY CLEAR TO ME; YOUR UNCLE SHOT AND PERPETRATOR NEVER CAUGHT, CAN COMPARTMENTALIZE

242	IR	JUROR 28 – BELIEVE IN PRESUMPTION OF INNOCENCE – MEANS BRING IN EVERYTHING I DIDN'T DO IT, WANT EVERYONE TO KNOW I DIDN'T DO IT EVERYONE KNOWING INNOCENT
243	IR	JUROR 31 – NOTED PROBLEM BASED ON LOSS OF INCOME, INCLUDE RESCHEDULING HEARINGS? CLEARED ALMOST ALL OF THEM, ONE SMALL OBLIGATION ON FRIDAY, ARRANGED COVERAGE
243	IR	JUROR 32 – CHILD CARE ISSUES TAKEN CARE OF
244	IR	NUMBER 45 – EXPERT TESTIMONY, WHY – BECAUSE I THINK PROVEN FACT EYE WITNESS TESTIMONY NOT RELIABLE; LAW ENFORCEMENTS AND PROFESSIONALS ARE TRAINED TO LOOK FOR SMALL DETAILS; BELIEVE THEY CAN BE IN ERROR; FACTS TO CONVINCE OF ERROR THINK LAW ENFORCEMENT AND PROFESSIONALS TRAINED TO LOOK AT CERTAIN THINGS; FILM INDUSTRY TRAINING – WARDROBE HIGHER EXPECTATION FROM LAW ENFORCEMENT – PROBABLY
246	IR	NUMBER 34 – MENTIONED YOUR CHILD, CONCERNED – HAVE 2 KIDS, DAUGHTER IN FIRST GRADE HAVE TO TAKE TO SCHOOL AS BUS DOESN'T COME OUT; ABLE TO MAKE ARRANGEMENTS, EXTREME HARDSHIP FINANCIAL HARDSHIP; CHILD'S ROUTINE – WILL BE MAINTAINED HARD TIME SITTING IN JUDGMENT OF OTHERS; LIFE IS GRAY UNTIL THERE IS MORE EVIDENCE SHOWN, EACH SIDE OF STORY PRESENTED, HARD TO PLACE JUDGMENT ON ANYONE, SOMETIMES THERE'S A PLACE FOR JUDGMENT CAN YOU MAKE DECISION REGARDING REASONABLE DOUBT STANDARD AND PRESUMPTION OF INNOCENCE – YES; WOULD NOT HAVE BIAS, NOT BASED ON WHAT I'VE HEARD SO FAR
249	J	WOULD NOW BE A GOOD TIME FOR BREAK TAKE 15 MINUTES 5 MINUTES AFTER 3 ADMONISHES PANEL
249		OFF
306	J	MS ROBERTSON MAY CONTINUE
307	IR	JUROR 35 – FORMER CLIENT OF MINE; BIAS YOU AGAINST DEF – NO BAD EXPERIENCE WITH LAW ENFORCEMENT – NOTHING FURTHER TO SAY, NO BIAS FOR OR AGAINST; MOTHER DISPATCHER IN GRAND ?; DO NOT TAKE ADDITIONAL WEAPON WHEN OUT HUNTING BUT WISH I HAD; LION INCIDENT
308	IR	JUROR 36 – REASON WHY DON'T OWN – TRIED TO GET LICENSE, CRIMINAL JUSTICE SYSTEM UPS AND DOWNS – DOWNS: THE WAY PEOPLE PUT INTO JAIL WITHOUT REASONABLE DOUBT, FALSELY ACCUSED POSITIVE – PEOPLE WHO ARE IN JAIL THAT SHOULD BE IN JAIL BAD EXPERIENCES WITH CRIMINAL JUSTICE SYSTEM
310	IR	NUMBER 37 – ISSUES WITH TAKING TIME OFF – NO; WORK WITH ME IN PAST PREJUDICE YOU – NO
311	IR	NUMBER 38 – 2 PRIOR JURIES, EXPERIENCE CRIMINAL WAS GOOD EXPERIENCE, WE FOUND THE DEFENDANT NOT GUILTY, UNANIMOUS AFTER MUCH, MUCH TIME; NEGOTIATIONS IN JURY ROOM – A LOT OF DISCUSSION AND DEBATE OVER STOPPING SUSPECTED PERSON WITHOUT CAUSE; MAJORITY FELT THAT VIOLATED HER RIGHTS; VERY GOOD DISCUSSION ON BOTH SIDES; CIVIL CASE WRONGFUL LOGGING – GENTLEMAN FROM CALIFORNIA WANTED LAND LOGGED, CALLED AND TOLD THEM NOT TO AND THEY WENT AHEAD AND LOGGED IT THEN SUED UNDER 3 TIMES VALUE OF TREE; FOUND FOR LOGGER, DIDN'T GET MESSAGE TO HIM; DIDN'T TAKE THEM LONG; CIVIL CASE HAD MORE TO DISCUSS; GOING TO BE ABLE TO HEAR ME ALRIGHT, SLIGHT HEARING DIFFICULTY FROM SHOOTING OFF BIG GUNS IN QUESTIONNAIRE SAID WOULDN'T BELIEVE TESTIMONY OF SOMEONE INVOLVED IN THE CASE; WHAT I MEANT WAS BIAS OF TESTIMONY, INVOLVED ALREADY TAKEN SIDES; ON EITHER SIDE

		YOU'VE MET LOUIS MARSHALL, NO BIAS FOR OR AGAINST
315	IR	NUMBER 39 – WIFE WORKS AT COURTHOUSE; NO INFORMATION ABOUT ATTORNEYS OR CASE; BIAS FOR OR AGAINST – NO QUESTIONNAIRE STATED A NUMBER OF FAMILY BELONG SPECIAL INTEREST GROUP – MADD, NRA – GRANDFATHER AND FATHER MAY BE I AM NOT; DIDN'T TAKE TO IT
317	IR	NUMBER 40 – DO YOU KNOW ANYONE IN LAW ENFORCEMENT – KING COUNTY SHERIFF IN WASHINGTON; NO BIAS OPINION OF CRIMINAL JUSTICE SYSTEM – PRETTY GOOD EXCEPT LET CHILD MOLESTERS BACK ON THE STREET EXPERIENCES WITH CRIME – NO HAVE NOT APPEARED IN COURT FOR ANYONE CONCERNS OR LIMITATIONS – NONE
319	IR	NOTHING FURTHER
319	IR	NUMBER 42 – DONATED TO SHERIFF'S DEPARTMENT; NORMAL FUND RAISER THEY DO EACH YEAR; NO BIAS ALSO NOTED VICTIM OF CRIME BURNING OF YOUR HOME AND THEFT OF YOUR BOAT – NEVER REALLY PUSHED IT, WAS AN EX-WIFE; MY CHOICE TO JUST LET IT GO SAID YOU DID HAVE INFORMATION REGARDING THIS CASE –MOSTLY FROM THE MEDIAL; EMPLOYER HAD TOLD ME HE HAD WORKED FOR COMPANY YEARS AGO; HAVE FORMED NO JUDGMENT ABOUT CASE
321	IR	NUMBER 44 – SORRY ABOUT THAT NUMBER 48 – FINANCIAL STRAIN, FOUND OUT THEY DO PAY IF HERE FOR A LENGTH OF TIME; OTHER THAN ELK HUNTING NO DISTRACTIONS
323	J	NUMBER 48, NOTED DURING RECESS YOU WISHED TO TALK TO ME; NOW ON RECORD
	JUROR	NEEDED A COUPLE OF ASPIRIN
	IR	WITH MR MARSHALL'S KNOWLEDGE GAVE HIM 2 ASPIRIN
323	IR	ALSO NOTED RINGING IN YOUR EARS, TROUBLE HEARING – NO AS LONG AS NO BACKGROUND NOISE; HEARING ASSISTANCE SOMEWHAT HELPS, DEPENDS ON DAY; INFORMATION OUT OF NEWSPAPER – NO BIAS NO CHRIS YOUNT, GO TO SAME CHURCH – NO BIAS CRIMINAL JUSTICE SYSTEM, UNFAIR AND UNJUST IN A LOT OF CASES – LIKE SOMEONE SAID EARLIER, CHILD MOLESTERS SEEM TO GET OFF EASIER THAN DRUG DEALER; MARIJUANA DON'T SEE PROBLEM WITH THAT SOMEONE THAT MAJOR LOW LIFE UNDERSTAND KEEPING THEM WHEREAS DRUG DEALERS AND THAT KIND OF THING SEEM TO HOLD MORE POWER THAN HIGHER CASES POSITIVES OF JUSTICE SYSTEMS – HAS BOTH REASONABLE DOUBT AND PRESUMPTION OF INNOCENCE – EXPLAINS HOW MUCH EVIDENCE – 100 PER CENT
328	IR	MAY I HAVE JUST A MOMENT SIR
	J	GO AHEAD
328	IR	PASS FOR CAUSE
	J	AT THIS POINT BOTH LAWYERS HAVE NO FURTHER CHALLENGES FOR CAUSE, FOR A REASON THEY JUST GIVE IN OPEN COURT; PEREMPTORY CHALLENGES – EXPLAINS IN MAKING PEREMPTORY CHALLENGES EXCUSE YOU; COME BACK AT 4:00 AT WHICH TIME HOPEFUL WE'LL ANNOUNCE WHO ARE THE JURORS TRYING THIS CASE THIS IS ONLY AN ESTIMATE BASED UPON PAST EXPERIENCE BE BACK HERE AT 4:00 YOU MAY HAVE TO WAIT A FEW MINUTES ADMONISHES PANEL
329	J	EXCUSES PANEL MEET IN CHAMBERS
410	J	THANKS PANEL FOR PATIENCE ANNOUNCE THE JURORS

		#49 #4 #5 #7 #8 #42 #11 #14 #15 #20 #27 #48 #39 #40
412	J	BEFORE DOING ANYTHING FURTHER, COMMEND LAWYERS IN THIS CASE; ABLE TO REDUCE TIME EACH OF YOU SPENT IN COURT; THANK YOU FOR HANDLING AS YOU DID THOSE OF YOU NOT CHOSEN, THANK YOU SINCERELY FOR YOUR TIME AND SERVICE AS JURORS; STILL HAVE TO CALL IN ON WEDNESDAY EVENING AFTER 6PM
415	J	YOU ARE ALL EXCUSED AT THIS TIME
	CLERK	SWEARS IN JURY
416	J	INITIAL JURY INSTRUCTIONS {RECORDING OF THE INSTRUCTIONS WAIVED IN CHAMBERS}
417	J	INSTRUCTION 11
424	J	CONTINUES JURY INSTRUCTIONS
425	J	CONCLUDE JURY INSTRUCTION 9
434	J	START AT 9 AM TOMORROW MORNING PROSECUTION'S OPENING STATEMENT
435	J	EXCUSES JURY
436	J	CALLS JURY BACK; RESUME SEATS PLEASE BACK ON RECORD JUROR 14
	JUROR	IS THERE A SET SCHEDULE AT 9 AM
	J	GENERALLY BEGIN AT 9 AM BREAK IN THE MORNING RECESS FOR LUNCH - HOUR AND A QUARTER USUALLY PROCEED IN THE AFTERNOON UNTIL 5 AFTERNOON BREAK NOW, IF HAVE WITNESS WE MAY GO LATER OR RECESS EARLIER GENERAL SCHEDULE
438	J	EXCUSES JURY WE ARE IN RECESS
	IR	MAY WE APPROACH AT PRELIMINARY HEARING SPECTATOR'S AREA WITNESSES SEQUESTERED BUT SHARED TESTIMONY TO WITNESSES ASKING COURT IF THEY WOULD MAKE A DAILY ANNOUNCEMENT TO SPECTATORS TO BE SURE THEY DON'T SAY ANYTHING ABOUT WHAT'S GOING ON
	J	FROM DEFENSE OR PROSECUTION
	IR	PROSECUTION
	LM	NO OBJECTION - I WAS NOT AWARE OF THAT; WILL TALK TO PEOPLE
	J	WILL MAKE ANNOUNCEMENT, BUT ORDERING YOU TO CONTACT SPECTATORS WHO WOULD BE PRESENT ON YOUR SIDE
	LM	LIKE VICTIM'S FAMILY
	J	YES OR FRIENDS/SUPPORTERS, INFORM THEM THEY ARE NOT TO DISCUSS TESTIMONY

		CONSEQUENCES OF STARTING OVER IF THEY DO
	IR	NOTHING FURTHER
	J	MR MARSHALL
	LM	NOTHING
	J	WE ARE IN RECESS - NOT OFF RECORD IF THERE ARE ANY THINGS THAT NEED TO BE BROUGHT UP IN ADVANCE LET THE OTHER SIDE KNOW ASAP I WOULD LIKE TO TAKE UP THOSE ISSUES BEFORE JURORS COME IN BEFORE 9:00; LET ME KNOW AS SOON AS YOU KNOW THERE'S GOING TO BE AN ISSUE
441		END

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

COURT MINUTES

**JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SUSAN AYERLE
DIVISION: DISTRICT**

**CASE NO. CR-2008-7529
DATE: OCT 14 2009 TIME: 8:00 AM
CD: 09-251**

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

**SUBJECT OF PROCEEDINGS
CHARGE**

JURY TRIAL - DAY 2

INDEX	SPEAKER	PHASE OF CASE
901	J	Calls Case
		Present: DEFENDANT IN CUSTODY WITH ISABELLA ROBERTSON; LOUIS MARSHALL FOR STATE
	J	PLEASE BRING IN THE JURY
902	J	GREETES JURY - TIME FOR OPENING STATEMENTS MR MARSHALL
	LM	OPENING STATEMENT
905	LM	CONTINUES OPENING STATEMENT
910	LM	CONTINUES OPENING STATEMENT
915	LM	CONTINUES OPENING STATEMENT
920	LM	CONTINUES OPENING STATEMENT
924	LM	CONCLUDES OPENING STATEMENT
925	IR	OPENING STATEMENT
930	IR	CONTINUES OPENING STATEMENT
938	IR	CONCLUDES OPENING STATEMENT
938	J	THANK YOU BOTH
	IR	HAVE PRELIMINARY MOTION
	J	JURY EXCUSED?
	IR	SEQUESTER WITNESSES
	LM	NO OBJECTION DETECTIVE BURKE IS WITNESS WILL EXCLUDE EXPERT WITNESSES?
	J	ALL WITNESSES LEAVE THE COURTROOM FURTHER ORDERING ALL WITNESSES NOT BE IN COURTROOM WHILE OTHER INDIVIDUALS TESTIFYING ALL SPECTATORS NOT TO DISCUSS ANY TESTIMONY THAT TAKES PLACE IN THIS COURTROOM WITH ANY WITNESS WHO HAS TESTIFIED OR WHO WILL OR WHO MAY AS LISTED BY PROSECUTION AND DEFENSE
	LM	CALLS
	CLERK	SWEARS
	LM	DIRECT
	CM	CLINT MATTINGLY - BCSO
		MARK STATE'S EXHIBITS 1 - 7; PHOTOGRAPHS
	CM	CONTINUES TESTIMONY
945	CM	DESCRIBES ARRIVAL AT SCENE LIGHTING CONDITIONS VERY DIM; HAD DEPUTY WIEMS TURN ON SPOTLIGHT; DESCRIBES WHAT SEEN ON LANE - WHITE PICKUP DESCRIBES LANE, NOT WIDTH OF REGULAR ROADWAY, PAVED LANE

		LANE THAT SERVICED ALL TRAILERS; DESCRIBES PICKUP NO ENGINES RUNNING BESIDES PATROL VEHICLES ANOTHER VEHICLE IN DRIVEWAY OF SPACE 60 LANE RUNS NORTH SOUTH TRAILERS EAST TO WEST PARKED PARALLEL TO TRAILER – EAST TO WEST; IN DRIVEWAY FOR THAT TRAILER
	LM	STATE'S EXHIBIT 1
948	CM	DID NOT TAKE PICTURE – DESCRIBES SCENE HOW LOOKED WHEN APPROACHED; VEHICLES DEPICTED PERSON LAYING ON BACK; SAW THAT NIGHT; RECOGNIZE LIGHTING BETTER IN PHOTOGRAPH THAN ORIGINAL
950	LM	MOVE TO ADMIT
	IR	NO OBJECTION
	J	STATE'S EXHIBIT 1 IS ADMITTED
951	LM	MOVE TO ADMIT 2
	IR	NO OBJECTION
	J	STATE'S 2 IS ADMITTED
951	LM	MOVE TO ADMIT STATE'S 3
	IR	NO OBJECTION
	J	3 IS ADMITTED
953	LM	MOVE TO ADMIT STATE'S 4
	IR	NO OBJECTION
	J	4 IS ADMITTED
954	CM	TESTIMONY REGARDING PHOTOGRAPH IDENTIFICATION
955	LM	MOVE TO ADMIT STATE'S EXHIBIT 5
	IR	NO OBJECTION
	J	STATE'S 5 IS ADMITTED
956	LM	MOVE TO ADMIT STATE'S EXHIBIT 6
	IR	NO OBJECTION
	J	STATE'S 6 IS ADMITTED
956	CM	TESTIMONY REGARDING PHOTOGRAPH IDENTIFICATION; DOES NOT SHOW TRAILER 59; SHOWS TRAILER IN LANE TO EAST OF SPACE 59 AND 60 DO NOT KNOW NUMBER
958	LM	MOVE TO ADMIT 7
	IR	NO OBJECTION
	J	STATE'S 7 IS ADMITTED
958	CM	IDENTIFIES DEFENDANT CONTINUES TESTIMONY REGARDING INCIDENT THAT NIGHT COVERING OTHER OFFICERS MR ANDERSON ON PHONE TO DISPATCH AT TIME WE ARRIVED TALKING TO DISPATCH WHEN WE ARRIVED; BOTH MR ANDERSON CAME OUT OF VEHICLE AND FOLLOWED ORDERS LAID DOWN ON HIS STOMACH; 2 OFFICERS DETAINED HIM AT THAT TIME; PLACED HIM IN CUFFS
1000	CM	I DID NOT TOUCH HIM; DEPUTY MARTINEZ AND DEPUTY WIEDABUSH JASON; W I E D E B U S H CONTINUES TESTIMONY RE MOVING TOWARDS TRAILER, WIFE AND TWO LITTLE KIDS IN TRAILER; MOVED BETWEEN BLUE SEDAN AND WHITE PICKUP; NEXT TO MALE SUBJECT LAYING ON HIS BACK FIRST OFFICER INTO THE TRAILER DESCRIBES MALE ON COUCH JOSHUA RUSSELL – LAYING ON COUCH WITH BLANKET OVER THE TOP OF HIM; LIGHTS ON IN TRAILER; APPEARED OR ACTING LIKE ASLEEP, I WOKE HIM UP; NOT COHERENT WHEN WOKE UP – NOT KNOWING WHAT WAS GOING ON; ALCOHOL CONSUMPTION INDICATORS, HE ADMITTED TO DRINKING ALCOHOL CHILDREN – WITH MRS ANDERSON ON OTHER SIDE OF TABLE IN LIVING

		<p>ROOM – DESCRIBES LOCATION IN TRAILER DOOR 4 FEET FROM DOOR; REVOLVER LAYING ON THE TABLE DID NOT TOUCH/PICKUP/DO ANYTHING NO SIGNS OF STRUGGLE SEEN MAKESHIFT TABLE SET UP STILL NO CHAIRS OVERTURNED STAYED IN TRAILER FOR OVER 7 HOURS I SECURED THE TRAILER AND PEOPLE INSIDE EXPLAINS, NO OTHER PERPETRATORS OR VIOLENCE; MADE SURE MRS ANDERSON HAD THINGS AND ABLE TO TAKE CARE OF CHILDREN KNEW DETECTIVES WOULD WANT TO TALK TO MRS ANDERSON AND MR RUSSELL NO HANDS PUT ON ANYBODY IN THE TRAILER MRS ANDERSON ALLOWED ACCESS TO HER HOME THERE APPROXIMATELY 7 HOURS; LEADS INTO NEXT MORNING EVENTUALLY LEAVE, DETECTIVES LEAVE CONCLUDED MY PORTION</p>
1006	LM	THANK YOU
	JW	CROSS
	CM	<p>TIME HEARD SHOTS FIRED ABOUT 23 HUNDRED HOURS IMMEDIATELY GOT INTO CAR; TOOK APPROXIMATELY 10 MINUTES DISPATCH GIVING INFORMATION AS DRIVING TO SCENE GAVE INFORMATION MR ANDERSON CALLED THEM WE WERE ON SOUTHSIDE OF LONG BRIDGE AT THAT TIME INITIAL CALL HAD COME IN FROM NEIGHBOR YOU KNEW MR ANDERSON IN TOUCH WITH DISPATCH KNEW HE WAS ON PHONE WITH DISPATCH TRAVEL AMERICA PARK – DESCRIBES AREA NO STREET LIGHTS ON MR ANDERSON'S ROAD; NORTH SOUTH ROAD TWO MALES HAD LEFT THE AREA WIEMS THERE; WIEDABUSH AND MARTINEZ ALL ARRIVE WITHIN A COUPLE MINUTES TURNED HEADLIGHTS AND OVERHEAD LIGHTS OFF PRIOR TO MAKING FINAL CORNER DID NOT SEE ANYBODY RUNNING OR MOVING AROUND; WHY WHEN BY 2 VEHICLES ASKED OTHER 2 DEPUTIES TO IDENTIFY INDIVIDUALS IN THEM</p>
1011	CM	<p>CONTINUES TESTIMONY DON'T KNOW ABOUT PORCH LIGHTS PRETTY DARK NOTHING ILLUMINATED WHEN ARRIVED SUMMARIZE: YOU AND WEIMS THERE; HE'S FACING SOUTH, A LITTLE BIT TURNED TO DRIVER'S SIDE SO SPOTLIGHT LIT UP ENTRANCE TO TRAILER 60 FIRST ILLUMINATION IS SPOTLIGHT ON TRAILER 60; AT THAT TIME ORDER MR ANDERSON OUT OF HOUSE; DID AS SOON AS BEHIND COVER WALKED RIGHT OUT, NO HESITATION</p>
1014	JW	EXHIBIT 1 – LIGHTING
	CM	<p>ALL LIGHTING IN EXHIBIT 1 IS FROM LIGHTING BROUGHT LATER COULD SEE BODY LAYING THERE AS SOON AS DEPUTY WIEMS TURNED SPOTLIGHT ON WHITE PICKUP PARKED IN ROADWAY, NOT DRIVEWAY; FACING SOUTH MY VEHICLE PARKED SAME DIRECTION, BACK BY 58 OR 57 NOT BEHIND BLUE SEDAN; WHEN CALLED OUT WE WERE AT SPACE 59 BLUE CAR IN DRIVEWAY OF SPACE 60; WHITE PICKUP PARKED IN THE LANE BEHIND THE BLUE SEDAN FACING SOUTH FRONT PORTION OF PICKUP BEHIND THE CAR</p>
1017	CM	<p>DON'T KNOW WHAT HAPPENED WITH MR ANDERSON WENT BY BODY, CALLED FOR MEDICS; WENT INTO TRAILER AND DIDN'T COME OUT FOR ABOUT 6 HOURS</p>

		PHOTOGRAPHS OF MUDROOM – ATTACHED TO TRAILER BELIEVE DOOR OPENED BECAUSE I YELLED FOR MRS ANDERSON HAD GUNS DRAWN MRS ANDERSON WITH CHILDREN COMING FROM KITCHEN AREA TO START OF LIVING ROOM; I YELLED HER NAME, SHE ACKNOWLEDGED ME INFANT AND OTHER SON GUESSING 7 OR 8, 6 7 SOMEWHERE IN THAT CATEGORY; INFANT IN JAMMIES;
1019	J	HOW MUCH LONGER YOU'LL BE
	JW	RESPONDS
	J	TAKE MORNING RECESS ADMONISHES JURY
1020	J	EXCUSE JURY BUT NO ONE ELSE
1021	J	ANOTHER MATTER TO TAKE UP SPECTATORS PRESENT; EACH OF YOU WANTS THIS TRIAL TO GO WELL AND HAVE JUSTICE RESULT NOTICING PEOPLE GETTING UP, GOING IN AND OUT OF COURTROOM DISTRACTION TO JURORS; MAY MISS IMPORTANT POINT OF TESTIMONY ORDER SPECTATORS AND COME IN AND GO OUT DURING RECESSES ONLY NOT DURING TIME TESTIMONY BEING GIVEN MAKE PLANS TO STAY IN RESUME AT A LITTLE AFTER 10:35; GO UNTIL 5 MINUTES UNTIL NOON
1022		MARK STATE'S EXHIBIT 8 – DRAWING WITH PHOTOGRAPH
1038	J	BRING IN THE JURY
1039	JW	RESUMES CROSS OF CLINT MATTINGLY
1040	CM	JUST THE MAKESHIFT TABLE; NO CHAIRS OTHER DEPUTIES IN AND OUT OF RESIDENCE DETECTIVE BURKE CAME IN CAME IN TO MAKE SURE EVERYTHING OK AT ONE POINT MRS ANDERSON WANTED TO GO TO BACK BEDROOM OF HER HOUSE, ASKED HER IF DEPUTY ACCOMPANIED HER; OTHER WEAPONS, REMOVED WEAPONS
	JW	OTHER PEOPLE CAME AND WENT
	CM	DON'T KNOW EXACTLY WHEN DETECTIVE BURKE ARRIVED I HEARD HE WAS ON SCENE WITHIN 30 MINUTES I DON'T HAVE EXACT TIMES, I WAS PAYING ATTENTION TO MRS ANDERSON – SHE WAS UPSET I DIDN'T ASK QUESTIONS; SHE WAS RECEIVING AND MAKING PHONE CALLS
1043	JW	THANK YOU
	LM	REDIRECT
	CM	EXHIBIT 8 – SMALL COLORED PHOTO IN CORNER DEPICTS WHITE PICKUP AND MALE SUBJECT LAYING ON BACK; BACK PORTION OF BLUE CAR; DIAGRAM WITH MEASUREMENTS AROUND THE OUTSIDE DID NOT MAKE SKETCH DID NOT TAKE MEASUREMENTS DISCERN WHAT'S A VEHICLE AND WHAT'S A TRAILER LOCATION OF CARS, WHERE FACING; DEPICTS WHAT REMEMBER
1045	LM	MOVE TO ADMIT EXHIBIT 8
	IR	NO OBJECTION
	J	EXHIBIT 8 IS ADMITTED
	LM	MAY PUBLISH TO JURY
	IR	NO OBJECTION
	J	YOU MAY PUBLISH
	LM	RESUMES CROSS OF CLINT MATTINGLY
1046	CM	GOT MESSAGE FROM DISPATCH AROUND COUNTRY INN AREA; MR ANDERSON ON PHONE; 3 MILES TO TRAVEL AMERICA
	LM	WHERE START
	J	FAR RIGHT PLEASE
1047	LM	NO FURTHER QUESTIONS

	JW	NOTHING FURTHER
1047	J	MAY WITNESS BE EXCUSED
	BOTH	NO OBJECTION
	J	JURORS, DO YOU HAVE QUESTIONS FOR THIS WITNESS
1048	J	IF YOU'RE WRITING ASSUME WRITING A QUESTION
1049	J	ANYONE HAVE QUESTION EXCUSES WITNESS
	LM	CALLS AMASA GEE
	CLERK	SWEARS WITNESS
	LM	DIRECT
	AG	AMASA J GEE; BIBLICAL NAME A M A S A G E E GO BY PETE RESIDE TRAVEL AMERICA PARK IN SAGLE, NUMBER 59 LIVED THERE 4 OR 5 YEARS NEIGHBORS CHARLES ON ONE SIDE; DON'T KNOW NAME ON OTHER SIDE THANKSGIVING LAST YEAR LIVED NEXT DOOR TO ANDERSON BEHIND MY HOUSE ABOUT 5 PEOPLE LIVED ON MY ROW RECALL THANKSGIVING 2008; NOT HOME MOST OF DAY; HOME THAT EVENING GETTING READY FOR BED JUST PRIOR TO 11; 2 DAUGHTERS AND A SON NAMES AND AGES SON IN BED; GIRLS GETTING READY FOR BED NOTICED WHEN I FIRST GOT HOME, NUMBER OF CARS THERE, AT LEAST ONE I HADN'T SEEN BEFORE ARGUING AT THE TIME DIDN'T RECOGNIZE WHITE TRUCK; PARKED IN THE ROAD OTHER VEHICLES PARKED IN THE GRASS KNOW ONE OR TWO OF THEM HAD BEEN THERE DON'T KNOW IF PICKUP RUNNING OR NOT WEATHER CONDITIONS - COOL, CLEAR HEARD ARGUING WHEN INSIDE TRAILER DISTANCE - 28 FEET BETWEEN 2 TRAILERS, FAIRLY CLOSE NOT USUALLY ABLE TO HEAR LOUD VOICES OUTSIDE TRAILER COULD NOT CLEARLY HEAR, MOSTLY NOT PAYING ATTENTION NEXT REMEMBER - FIRST THING REALLY REMEMBER SPECIFICALLY A GUNSHOT, OR WHAT I ASSUMED WAS GUNSHOT, THEN SCREAMING OH MY GOD OH MY GOD OVER AND OVER AGAIN SOUNDED LIKE LEANN FEMALE VOICE ASSUMING LEANN SCREAMING OH MY GOD ONLY THING I CAN SPECIFICALLY RECOGNIZE, SAID REPEATEDLY; SEEMED LIKE A LONG TIME, PROBABLY WASN'T 6 OR 7 TIMES IN THE LIVING ROOM IN MY TRAILER; HAVE WINDOWS THAT LOOK TOWARDS SPACE 60 - NOT LOOKING OUT WINDOWS DID NOT SEE ANYTHING; ONLY HEARD THINGS AFTER SCREAMING; HEARD VOICE SAY "WHAT ARE WE GOING TO DO NOW?" WITH FIRST FEW SCREAMS I CALLED 911 RELAYED INFORMATION TRIED TO GET MY KIDS TO STAY AWAY FROM THE WINDOWS INTERVIEW BY POLICE OFFICERS - NOT THAT EVENING, LATER OFFICER/DEPUTY BURKE
1058	LM	NO FURTHER QUESTIONS
	IR	CROSS
	AG	DARK WHEN GOT HOME; DON'T BELIEVE PORCH LIGHT ON
1058	IR	NOTHING FURTHER

	J	JURORS HAVE QUESTION?
		MARK COURT'S EXHIBIT 1, 2
1100	J	ADMONISHES JURY EXCUSES
1101	J	ASKS QUESTIONS WRITTEN BY JUROR
	BOTH	NO OBJECTION
	J	2 ND QUESTION
	BOTH	NO OBJECTION
	J	COURT'S 2 - QUESTION
	LM	NO OBJECTION
	IR	OBJECTION - RELEVANCE
	LM	DON'T CARE TO BE HEARD
	J	SUSTAIN OBJECTION
	J	NEXT QUESTION
	LM	NO OBJECTION
	IR	OBJECTION, RELEVANCE
	J	SUSTAIN
1102	J	PLEASE BRING IN THE JURY
1103	J	READS FIRST QUESTION
	AG	THERE WAS SHORTLY AFTER I GOT IN HOUSE COULD HEAR LOUD TALK HOW LONG TIME GOT HOME TO HEAR GUNSHOT - BEST RECOLLECTION, HALF AN HOUR
	J	ANY FURTHER
	LM	REDIRECT
	AG	PROBABLY LESS THAN HALF AN HOUR
	LM	NOTHING FURTHER
	IR	NO QUESTIONS
	J	MAY EXCUSE WITNESS
	LM	YES, MAY CALL AS REBUTTAL
	IR	MAY BE EXCUSED
	J	EXCUSES WITNESS
	LM	CALL MANUEL PADILLA BAILIFF INDICATES HE IS NOT PRESENT CALL RONALD COBB
	CLERK	SWEARS WITNESS
	LM	DIRECT
	RC	RONALD COBB; EMPLOYED BY BONNER COUNTY, TELECOMMUNICATIONS SPECIALIST; DISPATCHER; 911; WORKED 5 YEARS AND ALMOST 1 MONTH DUTIES DESCRIBED DISPATCH FIRE, LAW, EMS, 37 OTHER AGENCIES AS NEEDED BCSO ONE OF THOSE DEPARTMENTS ON DUTY 2 TO 3, SOMETIMES 4 ALL PEOPLE ON DUTY TAKE CALLS CALLS TAPE RECORDED RECALL THANKSGIVING 2008; THAT EVENING; ON DUTY THAT NIGHT OTHER DISPATCHERS, SUPERVISOR JULIE HALE, DISPATCHER LAURA CLAFFEY; KNOWN LAURA FOR A MONTH; JULIE 4 YEARS CAN BE HECTIC, MOST PART PRETTY STANDARD HAVE SPURTS; DID THAT EVENING HAD HOMICIDE, HEART ATTACK, CRASH - IT WAS CRAZY CALLS IN AND OUT TELL OVER RADIO; NUMBERS ASSOCIATED WITH OFFICERS ROAD DEPUTIES CHECK IN WITH US TIME TOOK CALLS REGARDING SHOTS FIRED - AROUND 11, DON'T RECALL ACTUAL TIME 11PM I TOOK INITIAL CALL OF SHOTS FIRED IDENTIFIED HIMSELF AS PETE GEE PROCEDURE FOR TAKING CALLS; ON PHONE MAYBE 2 MINUTES OR MORE

		NEXT STARTED GETTING CALLS FLOODING THE CENTER; DISPATCHED OUT FOR THAT AREA; FINISHED COMMUNICATION WITH HIM AND PICKED UP ANOTHER LINE SHOTS FIRED WHO GETS DISPATCHED; NO AMBULANCE DISPATCHED AT THAT TIME, NO FIRE; SOLELY LAW ENFORCEMENT - BCSO THAT RESPONDED 5 TO 10 SECONDS NEXT CALL IN - IDENTIFIED HIMSELF AS JAMES ANDERSON; CAME IN AFTER CALL WITH MR GEE CALL INS PHONE HAD BEEN RINGING FOR MR ANDERSON; DON'T RECALL IF HUNG UP WITH MR GEE, OR WHEN ON LAW WITH SOMEONE TELL WHEN ANOTHER CALLER IS COMING IN THERE WAS QUITE A BIT OF PHONE RINGING AT TIME TALKING WITH MR GEE; AFTER HUNG UP TOOK NEXT CALL; PURPORTED TO BE JAMES ANDERSON - ASKED HIM FOR NAME, [REDACTED] HE PROVIDED HE SAID THAT I JUST SHOT SOMEBODY PEOPLE CAME IN AND STUCK HIM UP AND HE JUST SHOT SOMEBODY CONVERSATION WAS RECORDED
		MARK STATE'S EXHIBIT 9 - 911 RECORDING
	LM	ASK TO PLAY STATE'S EXHIBIT 9
	JW	NO OBJECTION
	J	9 WILL BE ADMITTED
	JW	NO OBJECTION
1115	J	9 IS ADMITTED
1118		EXHIBIT 9 CONTINUES TO PLAY
1120		EXHIBIT 9 CONTINUES TO PLAY
1122		EXHIBIT 9 CONTINUES TO PLAY
1124		EXHIBIT 9 CONTINUES TO PLAY
1126		EXHIBIT 9 CONTINUES TO PLAY
1127	LM	RESUMES DIRECT
	RC	CONVERSATION WITH MR ANDERSON; HUNG UP PHONE WITH MR GEE BEFORE ANSWERED MR ANDERSON
1128	RC	THIS EPISODE JUST CONVERSATION WITH MR ANDERSON PEOPLE CALLING IN - IT WAS CRAZY OTHER DISPATCHERS TOOK CALLS; PAUSES I WAS TALKING TO OFFICERS
1129	LM	NO FURTHER QUESTIONS
	JW	CROSS
	RC	HANGING UP FROM MR GEE; TALKING TO MR ANDERSON OTHER CALLS FROM INCIDENT; JUST THOSE 2 DISPATCH PEOPLE OFFICERS GET IT AND GO; DON'T DISPATCH OFFICERS ONCE I AIR CALL, THEY AIR OUT WHAT UNITS ARE RESPONDING
	JW	HAVE DISPATCH LOG HERE
	RC	157 IS THAT MARTINEZ
	JW	THEY'RE IDENTIFIED BY THEIR NUMBERS
	RC	CORRECT 230456 THEY WERE ENROUTE - OK HAVEN'T REVIEWED THAT PARTICULAR LOG CAN'T RECALL TELEPHONE CALLS FROM TRAILER PARK; AROUND 3:00 PERMISSION TO CALL AUBREY ROUNSVILLE - DON'T RECALL
1132	JW	NOTHING FURTHER
	LM	RE-DIRECT
	RC	DISPATCH LOG WE GENERATE IT; LOG ALL INFORMATION INTO THAT LOG WHILE WORKING TYPING INTO COMPUTER GOES INTO LOG CUT AND PASTE STUFF INTO LOG OR DOES COMPUTER - I PUT IT IN THERE WHEN WE TYPE INFORMATION IN IT LOGS IT IN UNDER OUR NAME PRINT OUT A LOG YOU SEE NAME AND/OR NUMBERS CORRESPOND WITH THINGS TYPED IN

		ALSO SEE OTHER DISPATCHERS ON THAT LOG
1134	LM	NOTHING FURTHER
	JW	NOTHING FURTHER
	J	JURORS NOT SEEING ANYONE WRITING
	J	MAY WITNESS BE EXCUSED
	BOTH	NO OBJECTION
	LM	CALL LAURA CLAFFEY
		MARK STATE'S EXHIBIT 10
	LM	DIRECT
	LC	LARUA CLAFFEY 911 DISPATCHER WORKING 12 HOUR SHIFTS; HALFWAY THRU SHIFT AT 11 PM NATURE OF CALLS COMING IN - BELIEVE SHOTS FIRED TOOK PHONE CALL FROM TRAVEL AMERICA SEVERAL CALLS WE HAD THOUGHT IDENTIFIED JAMES FRIER FULL NAME IAN JAMES WOULD HAVE TO SEE LOG; WILL RECOGNIZE LOG CONTEMPORANEOUS WITH OTHER CALLS FROM TRAVEL AMERICA FRIER
	LM	ASK TO PLAY STATE'S 10
	J	IS EXHIBIT ADMITTED
	JW	NO OBJECTION
		STATE'S 10 IS ADMITTED
1140		STATE'S 10 PLAYS
1142		STATE'S 10 CONTINUES TO PLAY
1144		STATE'S 10 CONTINUES TO PLAY
1146		STATE'S 10 CONTINUES TO PLAY
1147	LM	OTHER INCIDENT
	LC	HEART ATTACK IN CLARK FORK ON PHONE WITH IAN FRIER DISPATCHING AMBULANCES TO CLARK FORK RON WAS COMMUNICATING WITH OFFICERS MORE SO MORE CALLS DURING COURSE OF EVENING THAT CALL CONTINUED UNTIL GOT OFFICER AT TRAILER WITH HIM
1148	LM	NOTHING FURTHER
	JW	CROSS
	LC	CALL FROM IAN FROM PADILLA RESIDENCE WITHIN SECONDS OF EACH OTHER STAYED ON LINE WITH MR FRIER - DON'T KNOW HOW LONG
1149	JW	NOTHING FURTHER
	LM	NOTHING FURTHER
	J	JURORS QUESTIONS NOT SEEING ANYONE WRITING EXCUSE THIS WITNESS
	BOTH	NO OBJECTION
	J	EXCUSES WITNESS
1150	J	TAKE EARLIER RECESS TODAY UNTIL 1:15 ADMONISHES JURY
1151	J	MR JOHNSON, GIVE JURORS 3 TO 4 MINUTES TO CLEAR BUILDING THEN EVERYONE ELSE CAN GO
1151	LM	MINOR ADMINISTRATIVE MATTER INQUIRE IF COURT HAS PARTICULAR - PUBLISH EXHIBITS TO JURY
	J	UP TO YOU IF GOING TO ASK EXHIBITS BE PUBLISHED TO JURY - NOT RIGHT BEFORE CROSS
1152	J	WE ARE IN RECESS
1153	IR	ADDRESSES JUDGE

	J	WE ARE ON RECORD
	IR	NOT AWARE DIFFICULTY PRELIMINARY HEARINGS RECESS HAVE EXTENDED TO 1:30 MS WHITNEY GOING TO BE ATTORNEY PREPPED FOR MS RIVERA
	LM	GOING TO BE AT LEAST A WHILE
	J	CONFLICT IS
	IR	PRELIMINARY HEARING; SHE CAN BE HERE AT 1:30
	LM	NO OBJECTION IF MR PADILLA HERE HE IS SHORT WITNESS
	J	PADILLA AT 1:15 RIVERA AT 1:30
1155	J	WE ARE NOW IN RECESS
115	J	PLEASE BRING IN THE JURY
116	J	GREETES JURY MR MARSHALL
	LM	CALL MR PADILLA
	CLERK	SWEARS WITNESS
	LM	DIRECT
117	MP	MANUEL PADILLA MANUEL LIVE TRAVEL AMERICA IN SAGLE; BEYOND SAGLE CONCO LIVE IN SPACE 16; 2 ND DRIVEWAY IN THE FRONT; TURN LEFT INTO OUR PLACE LIVED IN DIFFERENT TRAILER - 2 MONTHS AGO DAUGHTER CAME UP AND GAVE HER SPACE 49, TO THE END, 2 ND FROM THE END OLD PLACE IS FURTHER INTO THE TRAVEL PARK TRAILERS IN - 2 ND FROM LAST; 4 TH TRAILER SPACE 60 - KNOW WHERE IT IS; CAN SEE FROM FRONT PORCH OF SPACE 60, COULDN'T SEE WHOLE TRAILER; TWO TRAILERS FROM US SEE PART OF IT, DURING THE DAY NO TREES BETWEEN US AND THAT TRAILER; JUST TRAILERS THANKSGIVING 2008; WIFE AND I WATCHING CARTOONS HEARD GUNSHOT DIDN'T THINK ANYTHING OF IT; HEAR SHOTS ALL THE TIME 20 MINUTES LATER HEARD RUNNING UP ON DECK, WE KEEP OUR LIGHT ON SEE BIG TALL PERSON COMING UP, BEATING ON THE DOOR YELLED OUT KNOCK IT OFF HE YELLED MY GOD HE SHOT MY BROTHER CALL THE POLICE I DIDN'T 'KNOW JOKE, PRANK OR WHAT
121	MP	SEEMED LIKE 20 MINUTES - IT WAS PRETTY LATE I COULDN'T TELL YOU EXACTLY SEEMED LIKE IT WAS 20 MINUTES NOISE HEARD WAS GUN SHOT IN QUESTION COLD DAY; WINDOWS CLOSED; OTHER SIDE OF HOUSE HAVE BEDROOM WINDOW OPENED COULD HEAR OVER TV WITH WINDOWS CLOSED PERSON THAT ARRIVED AT DOOR TALL MAN NEVER SEEN HIM BEFORE; THOUGHT I HAD, BUT HAD NEVER SEEN HIM BEFORE EMOTION STATE: HE WAS WHITE ALREADY, CAUCASIAN, LOOKED LIKE HE WAS SCARED, SHIVERING, SHAKING, VOICE QUIVER HE'S OVER 6 FOOT TALL; WELL DRESSED, NOT A HOODLUM AS SOON AS I OPENED THE DOOR HE SAID MY GOD HE SHOT MY BROTHER DIDN'T LET HIM IN THE HOUSE AT FIRST HAD MY WIFE GET BACK; SHE WANTED TO RUN OVER THERE WHEN HE SAID I SAID NO, WE DON'T KNOW WHAT'S GOING ON WEARING JACKET AND LEVI'S TENNIS SHOE, NOTHING RATTY DIDN'T SEE MUD ON HIM THAT I CAN REMEMBER

		<p>KEPT HIM ON THE PORCH UNTIL HE THOUGHT HE HEARD SOMEONE COMING AROUND OUR TRAILER; THINK HE SAID IT'S HIM I BACKED IN AND HE FOLLOWED ME I WAS STILL ON THE PHONE WIFE ACTUALLY CALLED, WHEN HE CAME IN THAT'S WHEN I GRABBED THE PHONE; SHE CALLED 911 THEN I TALKED TO 911 OPERATOR WHEN I STEPPED AROUND THE CORNER, TOLD HER TO GET DOWN; WHEN I WAS ON THE PHONE HEARD A BANG AND IT WAS HIM HE HAD TRIED TO MOVE IT IN FRONT OF EXIT DOOR; IT FELL HE HAD DONE IT; HE WAS ON HIS KNEES BY THEN DOOR NOT INSTALLED, IN HOUSE; DOOR GOING TO OUTSIDE CLOSED GENTLEMAN TRIED TO USE IT TO BLOCK THE OTHER DOOR KNOCKED STUFF OVER HAD BY EXIT DOOR THEN I WAS ON PHONE TELLING OPERATOR TELLING I DON'T KNOW WHO HE IS TOLD US HIS BROTHER HAD BEEN SHOT AND WE NEEDED HELP I GUESS WE WEREN'T THE FIRST ONES THAT CALLED; SHE SAID THEY WERE ON THEIR WAY SAID WE NEEDED HELP OURSELVES WE HAVE PISTOL TO PROTECT OURSELVES TOLD HER HE WAS IN THERE AND WHAT HE HAD SAID HEARD NEIGHBORS AROUND; FINALLY LOOKED OUT AND NEIGHBOR ALLEN WAVED; GUESS HE HAD CALLED THE POLICE DON'T KNOW LAST NAME</p>
128	MP	<p>AFTER INTERPLAY WITH ALLEN, SEEN ANOTHER NEIGHBOR COME AROUND CORNER, WAS CHRIS HE ASKED IF OK, SAID NO NEEDED HELP ANOTHER 20 - 30 MINUTES NEVER HEARD THE SIRENS, BUT CAN SEE THE LIGHTS MAN IN TRAILER DIDN'T KNOW AT TIME NOW KNOW LIVED WITH SIGNIFICANT OTHER; IT'S RE-RENTED AGAIN HAD SEEN HIM ON TOP OF ROOF BEFORE FIRST TIME SEEN HIM IN HIS FACE DURING TIME IN TRAILER CALMED DOWN FOR A LITTLE BIT - MY WIFE WITH HIM TALKING; SHE'S BEEN NURSE FOR ABOUT 35 YEARS ALL OF A SUDDEN HEARD HE KILLED MY BROTHER, WORDS LIKE MF I TOLD HIM TO CALM DOWN; IF HURT WIFE WOULD HAVE TO LEAVE NOTHING PHYSICAL; MOUTH PART UNDERSTOOD NEVER SAW WEAPONS NEVER SAW GLOVES ON HANDS EVENTUALLY OFFICERS ARRIVED AT TRAILER, AT LEAST 20 TO 30 MINUTES OPERATOR SAID THEY WERE THERE WITH SHOOTER TOLD THEY SHOULD BE THERE ANY TIME WHEN THEY FINALLY GOT THERE SAW IT WAS AN OFFICER, 2 MORE CAME IN AFTER HIM TOLD WIFE TO GET UP - SHE WAS STILL ON FLOOR GENTLEMAN RIGHT NEXT TO WIFE; SHE WAS HOLDING HIM, KEPT TALKING TO HIM OPENED DOOR FOR OFFICER, THEY CAME IN; HE WAS ON FLOOR WITH WIFE TOLD OFFICER BEHIND YOU IS PISTOL; TOLD HIM MINE, NOT HIS GENTLEMAN WHO CAME IN DID NOT TOUCH PISTOL, HE DIDN'T KNOW IT WAS THERE</p>
133	IR	CROSS
	MP	<p>AT WHAT POINT GOT PISTOL OUT - WHEN GENTLEMAN THOUGHT HE HEARD SOMEONE COMING AROUND TRAILER; TOLD WIFE TO GET DOWN SHE GOT THE PISTOL OR SHE HAD HAD IT; TOLD HER MAKE SURE HE DOESN'T SEE IT NORMALLY KEEP WEAPON IN NIGHTSTAND NEXT TO MY SIDE OF THE BED AT ANY TIME SEE ANYONE FOLLOWING - NOISES I THOUGHT WAS MY NEIGHBOR, BUT FOUND OUT WAS PEOPLE FROM PARTY I THOUGHT IT WAS MY NEIGHBOR</p>

		THEY WERE HAVING A THANKSGIVING PARTY; WHERE IAN CAME FROM GOT FROM HIM - FROM IAN WHAT DID HE SAID - SAID WE WERE HAVING THANKSGIVING PARTY AND HE CAME IN AND SHOT MY BROTHER AT WHAT POINT SAID THAT - OH GOSH - TIME WISE I COULDN'T TELL YOU, HAD BEEN GOING ON FOR A WHILE ALREADY MR FRIER HAD BEEN DRINKING
135	IR	NOTHING FURTHER
	LM	REDIRECT
	MP	THANKSGIVING PARTY ALL WE WERE DOING WAS HAVING OUR THANKSGIVING PARTY KNOW WHERE HE WAS TALKING ABOUT - HE POINTED TO THE BACK, I GUESS WHERE HE RAN FROM; LAST TRAILER OR NEXT ON IN FOUND OUT LATER THAT'S WHERE PARTY WAS AT KNOWN IN PARK, ALLEN, SAID HE KNEW THE BOYS THEY ALL KNEW EACH OTHER; HOW DO YOU KNOW THAT; SAID HE'D KNOWN THEM SINCE THEY WERE KIDS A LOT OF TALKING - GOSSIP GOES AROUND HAVE KNOWN EACH OTHER FOR YEARS DISPATCH TAPE WHERE YOU CALLED IN HE SOUNDED HYSTERICAL; HE WAS AT FIRST UNTIL WIFE CALMED HIM DOWN OPERATOR TOLD ME SHE COULD HEAR WHAT HE SAID BY TIME OFFICERS SHOWED UP; HALF OR MORE OF THAT TIME HE HAD CALMED DOWN; OUTBURST THEN CALM DOWN
138	LM	NOTHING FURTHER
	IR	NO QUESTIONS
	J	JURORS QUESTIONS
		MARK COURT'S 3
139	J	READS COURT'S EXHIBIT 3 OBJECTION
	LM	NO
	IR	OBJECTION - RELEVANCE
	J	MR MARSHALL
	J	SUSTAIN THE OBJECTION
140	J	PLEASE BRING IN THE JURY
141	J	BY MOVING BACK AND FORTH YOU GET MORE ACTIVITY THAN WE DO MAY THIS WITNESS BE EXCUSED
	BOTH	YES
	J	EXCUSES WITNESS
	LM	CALLS TARA HIGGINS
	CLERK	SWEARS
	LM	DIRECT
142	TH	TARA HIGGINS; LIVE SPACE NUMBER 1 TRAVEL AMERICA KNOW IAN FRIER; USED TO WATCH THE KIDS AFTER SCHOOL AUBREY'S KIDS IAN AND AUBREY'S CHILDREN - AGES 8 AND 6 I'VE KNOWN AUBREY SINCE WE WERE LITTLE CLOSER TO HER THAN IAN AUBREY USED TO LIVE IN TRAVEL AMERICA DON'T REMEMBER LAST THANKSGIVING DID NOT KNOW ELI HOLT; NEVER MET ACQUAINTANCE WITH JAMES AND LEANNE FRIENDS WITH NEIGHBOR YARD SALE ONLY TIME AT OTHER'S TRAILER REMEMBER THANKSGIVING LAST YEAR SAW IAN FRIER; SAW SOMEONE WITH HIM; FOUND OUT ELI HOLT; CAME TO MY TRAILER; AT TIME THEY SHOWED UP NO ONE THERE; AFTER THAT NEIGHBOR BILL ROSS CAME OVER; HE'S A FRIEND

		<p>TIME ELI AND IAN CAME OVER – BETWEEN 8:30 AND 9 PM HOW THEY GOT THERE: BELIEVE IN IAN'S TRUCK – I DIDN'T GO OUTSIDE NEVER SAW TRUCK BEFORE; DIDN'T SEE HOW THEY ARRIVED WHEN ELI AND IAN CAME OVER I WAS CLEANING THE KITCHEN, THEY HAD BEEN DRINKING BEFORE THEY GOT THERE; DIDN'T BRING ANY BEER OR ALCOHOL WITH THEM THAT I SAW HOW KNOW DRINKING – BY THEIR STATURE, THE MOOD TALKED ABOUT IT; DIDN'T SAY WHERE THEY HAD BEEN STAYED THERE – LEFT PROBABLY 10 PM SOMETHING ABOUT GOING TO THE LIBRARY, SOMEONE OWED THEM MONEY; IAN SAID DIDN'T MENTION ANYTHING ABOUT JAMES ANDERSON DON'T RECALL WHAT THEY WERE WEARING TV ON LOW THEY WERE IN KITCHEN TALKING WITH ME; CONTINUED TO CLEAN THIS WHOLE TIME 10 OR 10:15; KNOW IT WAS AROUND 10</p>
149	LM	THANK YOU
	IR	CROSS
	TH	<p>ARRIVED 8:30 TO 9; WHY – DON'T KNOW WHY WAS IAN IN HABIT OF STOPPING BY – NO, ONLY TIME HE CAME AND GOT KIDS INSTEAD OF AUBREY TELL DRINKING BY STATURE – SPEECH, STUMBLING NOT UPSET AT THE BEGINNING LATER ON YES DO NOT KNOW WHAT IT WAS ABOUT ONE MORE UPSET – IAN DIDN'T HEAR ANYTHING ABOUT WHY HE WAS UPSET; HIS PHONE RANG AND HE WENT OUTSIDE – DON'T KNOW WHAT CALL WAS ABOUT NEIGHBOR WILLIAM ROSS WAS THERE; NEVER SEEN IAN IN THAT STATURE BEFORE, WALKED TO NEIGHBOR AND HAD HIM COME OVER; FELT OUT OF PLACE; NOT KNOWING ELI UNTIL THAT NIGHT, BEING AGGRAVATED; FELT SAFER WITH NEIGHBOR</p>
152	IR	NOTHING FURTHER
	LM	RE-DIRECT
	TH	<p>BILL GOT ALONG WITH IAN AND ELI NEVER HEARD THREATS IAN MORE AGGRAVATED DIDN'T HEAR ANYTHING ABOUT ANDERSON; ZIARNICK GOING TO LIBRARY TALK AFTER PHONE CALL LEFT HALF HOUR, 45 MINUTES AFTER PHONE CALL IAN NOT BREAKING ANYTHING, THROWING</p>
153	IR	NO RE-CROSS
	J	JURORS
	J	MAY WITNESS BE EXCUSED
	BOTH	NO OBJECTION
	J	EXCUSES WITNESS
	LM	CALLS AUBREY ROUNSVILLE
	CLERK	SWEARS
	LM	DIRECT
155	AR	<p>AUBREY ROUNSVILLE; LIVE IN TOWN LIVED AT TRAVEL AMERICA PARK – 2007 TO BEGINNING 2009 KNOW IAN FRIER – EX-BOYFRIEND TOGETHER ALMOST 5 YEARS HAVE CHILDREN – HALEY 3 YEARS OLD, ONE DAUGHTER I HAVE 2 OLDER BOYS; HE HAD RELATIONSHIP WITH BOYS SPACE NUMBER 38 LOCATION IN TRAVEL PARK</p>

2 STREETS DOWN FROM 49
 DO NOT KNOW JAMES ANDERSON
 DO NOT KNOW LEEANN ANDERSON
 KNEW ELI HOLT – STEP BROTHER TO IAN
 KNEW ELI PRETTY WELL; WENT TO SCHOOL WITH HIM
 THANKSGIVING 2008; SAW IAN HE HAD THE KIDS I GOT OFF AT 2
 PROBABLY AROUND 3
 WE WERE TOGETHER AT THAT TIME
 HE WAS AT HOME PRIOR, MY HOME IN TRAILER PARK
 WORK AT VALLEY VISTA, GOT OFF AT 2PM
 I WENT HOME AND CHANGED BECAUSE HE HAD ALREADY GONE TO
 COMMUNITY HALL WITH KIDS
 COMMUNITY HALL ON SAGLE ROAD, TALACHE ROAD – DOING DINNER WITH
 FAMILY FRIENDS, LOTS OF PEOPLE
 ELI AND IAN THERE; OTHER FAMILY MEMBERS
 JUST PULLING THE TURKEYS OUT
 ATE WITH IAN, ELI, AND REST OF FAMILY
 LEFT TOGETHER PROBABLY AROUND 7 7:30 MAYBE
 DRINK NOT VERY OFTEN; I DID NOT DRINK ON THANKSGIVING
 I'M PRETTY SURE THEY BOTH HAD A COUPLE DRINKS DURING DINNER
 MOOD AT SAGLE COMMUNITY HALL – GREAT, FAMILY, FRIENDS, FOODS,
 LOVE
 WE LEFT, IAN, ELI, KIDS AND ME WENT BACK TO MY HOUSE
 IAN'S BIG WHITE FORD TRUCK – HAD ONLY HAD COUPLE WEEKS
 GOT LOAN FROM BANK; GOT IN TOWN
 NEW TRUCK, 2006; PRETTY NEW
 I WAS DRIVING SUBARU
 ELI WAS DRIVING CHEVY TRUCK – ORANGE/RED
 WENT BACK TO MY HOUSE; EVERYBODY PARKED THERE
 I STAYED THERE REST OF NIGHT WITH MY KIDS
 ELI AND IAN STAYED FOR PROBABLY AN HOUR THEN SAID THEY WERE
 GOING TO BAR TO HAVE A DRINK
 LEAVE AROUND 8:30; TOOK IAN'S TRUCK; TOGETHER
 SAID HE'D BE GONE ABOUT AN HOUR – IAN
 PLANS – THEY WERE GOING TO GO TO BAR AND THEN COME BACK AND WE
 WERE GOING TO WATCH MOVIE WITH THE KIDS; STAYING UP LATE
 POINT LATER SAW IAN – THEY CAME BACK ABOUT AN HOUR LATER; THEN
 SAID THEY WERE GOING TO VISIT A FRIEND, THINK COUSIN SILAS
 9:30 10 MAYBE – IAN'S COUSIN SILAS DON'T KNOW LAST NAME
 MOOD – GOOD, WEREN'T DRUNK, COULD TELL THEY HAD BEEN DRINKING
 EVERYBODY HAPPY
 DIDN'T SEE WHO DRIVING WHEN THEY LEFT
 IN THE HOUSE 2ND TIME – 15 OR 20 MINUTES; DIDN'T DRINK WHILE THERE
 NEXT TIME SAW THEM – DIDN'T SEE ELI AGAIN; NEXT TIME SAW IAN WHEN
 POLICE BROUGHT HIM EARLY NEXT MORNING
 HAD HEARD WHAT HAD HAPPENED; WENT TO BED WITH MY KIDS
 WOKE UP PROBABLY AROUND 2; MISSED PHONE CALLS
 CALLED STATE POLICE BACK; CALLED DISPATCH, WHEN ON PHONE THEY
 BROUGHT IAN HOME
 DEMEANOR – UPSET, CRYING, DEVASTATED, FREAKING OUT; YELLING
 SOBBING
 HAD A PAIR OF JEANS, T SHIRT AND JACKET – SAME AS EARLIER
 CLOTHING – WHEN HE CAME IN HE REALIZED HAD BLOOD ON SIDE OF
 JACKET, FREAKED OUT SAID WASH IT, GET RID OF IT
 TRIED TO GET BLOOD OFF WITH WASH CLOTH
 HAD BLOOD ON HIS HEAD; BURN ON – SOMEPLACE ON FACE
 RED LIKE RASH BUT NOT; Splotchy – IRRITATED
 POINTING TO RIGHT SIDE OF FACE – WAS RIGHT SIDE
 OFFICERS HADN'T ASKED FOR CLOTHES; DIDN'T KNOW ABOUT CLEANING

		THEM JUST TRYING TO CALM HIM DOWN
206	IR	CROSS
207	AR	COLOR OF CLOTHES DON'T REMEMBER WHAT ELI WEARING IAN WEARING LEVI'S AND BLACK JACKET
	IR	THANK YOU
	LM	NO QUESTIONS
	J	JURORS QUESTIONS OF THIS WITNESS
		MARK COURT'S 4 AND COURT'S 5
208	J	ADMONISHES AND EXCUSES JURY
209	J	READS QUESTION COURT'S 4
	LM	NO OBJECTION
	IR	OTHER THAN RELEVANCE OBJECTION
	J	SEEMS TO HAVE SOME RELEVANCE I'LL ALLOW
	J	COURT'S 4
	BOTH	NO OBJECTION
	J	COURT'S 5
	LM	NO OBJECTION
	IR	OBJECTION - HEARSAY
	LM	YOUR DISCRETION
	J	SUSTAIN THE OBJECTION PLEASE BRING IN THE JURY
210	J	FIRST QUESTION FROM COURT'S 4
	AR	DISTANCE TO NUMBER 60 HAVE TO GO PAST 38 TO GET TO 60
	LM	ONE QUESTION
	AR	DID NOT HEAR GUNSHOT
	J	EXCUSE
	LM	NO OBJECTION
	IR	ANTICIPATE SUBPOENAING MS ROUNSVILLE
	J	MAY HAVE TO SHOW UP AT LATER TIME EXCUSED AT THIS TIME
212	LM	CALLS KATIE RIVERA
	CLERK	SWEARS WITNESS
	LM	DIRECT
	KR	KATIE RIVERA; BCSO, DEPUTY; BEEN WITH BONNER COUNTY FOR 3 YEARS PATROL OFFICER IN OROFINO PRIOR DETECTIVE ALL OF LAST YEAR WORKED ON ANDERSON CASE ASSISTING DETECTIVE SGT BURKE MEASURED CRIME SCENE - ARRIVED ON SCENE AROUND 1 O'CLOCK STARTED AROUND 2 IN THE MORNING 2 AM LIGHTING, SHERIFF'S OFFICE BROUGHT IN FLOOD LIGHTS THEY SET UP ROLE - SGT BURKE ASKED ME TO PHOTOGRAPH SCENE
		MARK STATE'S EXHIBITS 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22
	LM	CONTINUING DIRECT
	KR	CONTINUING TESTIMONY
222	LM	RESUMES DIRECT OF KATIE RIVERA
	KR	STATE'S 11 - PHOTOGRAPH RIGHT SIDE OF BODY; TOLD ELI HOLT
	LM	MOVE TO ADMIT 11
	JW	NO OBJECTION
	J	11 IS ADMITTED
	LM	STATE'S 12
	KR	MR HOLT'S LEFT HAND HOLDING KEYS

		DESCRIBES PICTURE OF HAND HOLDING KEYS HAD NOT MOVED HIS HAND
224	LM	MOVE TO ADMIT 12
	JW	NO OBJECTION
	J	12 IS ADMITTED
	LM	STATE'S 13
	KR	COVERED PORCH AREA OUT BACK OF RESIDENCE FACING EAST
	LM	MOVE TO ADMIT 13
	JW	NO OBJECTION
	J	13 IS ADMITTED
	KR	FORD PICKUP; HOLES IN WINDOW CANOPY 3 HOLES IN DRIVER'S SIDE TOP WINDOW – COVER OVER THE BED WINDOWS MADE OUT OF APPEARS TO BE GLASS HOLES IN THE FIRST WINDOW OF DRIVER'S SIDE OF CANOPY HEIGHT FROM PAVEMENT TO IN SATCHWELL'S REPORT
	LM	ASK SHE BE ALLOWED TO LOOK TO SEE MEASUREMENTS
	J	SHE MAY
	KR	5'6" 4'9" 5'1 ½" 3 HOLES HEIGHT FROM PAVEMENT HOLES FAIRLY CLOSE TOGETHER MR HOLT WAS ON THAT SIDE OF TRUCK FACING THE RESIDENCE
229	LM	MOVE TO ADMIT 14
	JW	NO OBJECTION
	J	14 IS ADMITTED
	KR	EXHIBIT 15 – BED OF WHITE FORD TRUCK, INSIDE FOUND GLASS FRAGMENTS COPPER AND SLUG
231	LM	MOVE TO ADMIT STATE'S 15
	JW	NO OBJECTION
	J	15 IS ADMITTED
	KR	APPEARED TO BE COPPER; ONLY FOUND 2 PIECES THAT NIGHT ISP FOUND MORE LATER ON STATE'S 16 – INSIDE OF WHITE FORD TRUCK, THINK DEAN SATCHWELL TOOK PHOTOGRAPH; TAKEN FROM DRIVER'S SIDE SEARCH WARRANT ON DECEMBER 3 RD ; 5 DAYS LATER APPROXIMATELY
234	LM	MOVE TO ADMIT STATE'S 16
	JW	NO OBJECTION
	J	16 IS ADMITTED
	KR	ITEMS FROM SEARCH WARRANT DID NOT FIND WEAPONS; DON'T BELIEVE FOUND CLOTHES; DID NOT FIND GLOVES IN WHITE TRUCK; FOUND GLOVES IN HOLT'S RED PICKUP 2 DIFFERENT RED VEHICLES; RED VEHICLE AT SCENE NOT RELATED TO INCIDENT; DID NOT CHECK OTHER VEHICLES FOR ANYTHING ITEMS TAKEN FROM SCENE DEAN SATCHWELL TOOK SWABS
237	LM	FIND KEYS IN EVIDENCE BOX
	J	SHE MAY
		MARK STATE'S 23 – EVIDENCE BAG HOLDING KEYS FROM SCENE
	LM	CONTINUES DIRECT
	KR	CONTINUES TESTIMONY
239	KR	OPENS EVIDENCE BAG KEYS FOUND IN DECEASED HAND
	LM	MOVE TO ADMIT STATE'S 23
	JW	NO OBJECTION
	J	23 IS ADMITTED
	LM	BROUGHT .44 CALIBER HANDGUN
		MARK STATE'S EXHIBIT 24

	KR	EXPLAINS CHAIN OF CUSTODY ON EXHIBIT 24 – FIREARM WAS UNSEALED FOR FURTHER TESTING
242	KR	OPENS EVIDENCE BOX – IDENTIFIES 44 MAGNUM FOUND ON THE TABLE INSIDE THE LIVING ROOM SECURED IT MYSELF; ASSISTED DEAN WITH IT WORKED IN CONJUNCTION WITH DEAN THAT NIGHT KNOW ABOUT FIREARMS TO A POINT – TAKEN FROM THE SCENE; SECURED IN MY PATROL CAR UNTIL BACK TO SHERIFF'S OFFICE DEAN OPENED IT AND SECURED EACH ROUND INDIVIDUALLY THEN GUN SECURED IN THE BOX
245	LM	MOVE TO ADMIT STATE'S 24
	JW	NO OBJECTION
	J	STATE'S 24 IS ADMITTED
	LM	PUBLISH TO JURY BY SHOWING IT TO JURY BY HOLDING IT UP
	J	SHE MAY
	LM	PIECE SEPARATE
	KR	CYLINDER LOOKED AT CYLINDER THAT EVENING; COULD SEE AMMUNITION IN IT STATE'S 17 – WHEN CYLINDER OPENED; SHOWS ONE SPENT ROUND SPENT ROUND IN FRONT OF HAMMER
	LM	MOVE TO ADMIT STATE'S 17
	JW	NO OBJECTION
	J	17 IS ADMITTED
248	KR	ATTENDED AUTOPSY PERFORMED BY SALLY AIKEN
249	J	AFTERNOON RECESS ADMONISHES JURY IN RECESS 15 MINUTES OR PERHAPS A LITTLE LONGER
250	J	RECESS UNTIL 5 AFTER 3
316		JUDGE ON BENCH
317	J	READY TO PROCEED
	LM	WE HAVE HAD DIFFICULTIES WITH ELMO TECHNOLOGY CAN DO WITHOUT TODAY READY TO GO
	J	SUGGEST IN FUTURE TECHNICAL ISSUES BE ADDRESSED RATHER THAN KEEPING 34 PEOPLE WAITING FOR AN EXTRA 10 MINUTES BRING IN THE JURY
319	J	THANKS JURY FOR PATIENCE
	LM	RESUMES DIRECT OF KATIE RIVERA
	KR	STATE'S EXHIBIT 18 – MR HOLT'S LEFT HAND; TAKEN IN AUTOPSY ROOM AT HOLY FAMILY TAKEN BY FUNERAL SERVICES; WAS AT HOLY FAMILY SALLY AIKEN ALREADY HAD OPENED THE BODY BAG; JUST HAD THE BAG OPENED TOOK PICTURES PRIOR TO AUTOPSY
	LM	MOVE TO ADMIT STATE'S 18
	JW	NO OBJECTION
	J	EXHIBIT 18 IS ADMITTED
	KR	EXHIBIT 19 IS RIGHT HAND – OTHER HAND
	LM	MOVE TO ADMIT EXHIBIT 19
	JW	NO OBJECTION
	J	19 IS ADMITTED
	J	MS WHITNEY OBJECTION TO ANY OF THESE PHOTOS
	JW	NO
	KR	20 PICTURE OF LEFT CHEEK EYE AREA AFTER CLEANED BY DR AIKEN SHOWS BURN MARKS AROUND ENTRY WOUND DR AIKEN DETERMINED ENTRY WOUND PICTURE 21 – LEFT EYE AREA WITH MEASURING DEVICE NEXT TO IT PICTURE 22 – EXIT WOUND; DR AIKEN DETERMINED EXIT WOUND
324	LM	MOVE FOR ADMISSION 20, 21, AND 22

	JW	NO OBJECTION
	J	20, 21, AND 22 ADMITTED
324	L M	NOTHING FURTHER
	JW	CROSS
	KR	OWN REPORT WRITTEN
328	JW	CONTINUES CROSS
	KR	<p>CONTINUES TESTIMONY</p> <p>TROOPER BENNETT LOCATED IAN FRIER</p> <p>TOLD TO PHOTOGRAPH AREA AROUND TRAILER</p> <p>TRAINING RE CRIME SCENE INVESTIGATION – POST TRAINING; 6 MONTHS</p> <p>TRAINING – POST ACCREDITED CAMERA</p> <p>DON'T KNOW MODEL OF CAMERA USED – USED FLASH</p> <p>DETERMINED WHAT TO PHOTOGRAPH – PHOTOGRAPHED THE WHOLE</p> <p>SCENE; JUST STARTED TAKING PICTURES</p> <p>PHOTOGRAPH OF MUD ROOM – UNFINISHED PORCH: NO DOOR</p> <p>RED FORD TRUCK; THE WHITE, IAN'S TRUCK WITH SHELL; BLUE CAR – DID</p> <p>NOT SEARCH RED CAR; DID NOT SEARCH THE BLUE CAR</p> <p>NOT SURE IF ANYONE DISTURBED SCENE BEFORE I GOT THERE</p> <p>TRUCK, IAN FRIER'S TRUCK WITH CANOPY – DIDN'T SEARCH EXCEPT FOR</p> <p>BED AT THE SCENE; PHOTOGRAPHED WHEN NOTICED BULLET HOLES IN</p> <p>GLASS; STOOD AT TAILGATE AND PHOTOGRAPHED</p> <p>DID NOTHING MORE UNTIL SAW ON THE 3RD AT BCSO; ENTERED BACK OF</p> <p>TRUCK TO TAKE "ROUNDS?" OUT</p> <p>TRANSPORTED TO SECURE STORAGE BY TOW TRUCK</p> <p>WAS THERE WHEN TOW TRUCK CAME BUT DIDN'T TALK TO HIM</p> <p>BELIEVE DEAN, MR SATCHWELL ASSISTED WITH HIM</p> <p>TRACE EVIDENCE ON EXTERIOR OF TRUCK PRIOR TO TOW – WE DIDN'T</p> <p>EFFORTS MADE TO PRESERVE TRACE EVIDENCE ON TRUCK DURING</p> <p>TRANSPORT – I LEFT BEFORE TOW TRUCK DID</p>
335	JW	CONTINUES CROSS
	KR	<p>OTHER VEHICLES IN SECURED HOLDING AREA – DON'T RECALL SEEING ANY</p> <p>DUST FREE – DON'T KNOW</p> <p>EXHIBIT 16 – STRAP AROUND THE WHEEL – SEATBELT; I READ THRU DEAN'S</p> <p>REPORT</p> <p>IMAGINE TO TOW VEHICLE SO WHEEL WOULDN'T TURN DURING TOW</p> <p>TOOK SEVERAL HOURS TO PHOTOGRAPH</p> <p>DARK WHEN LEFT</p> <p>COLLECTED BULLET FRAGMENTS BEFORE TRANSPORT; MEASURED</p> <p>BEFORE TRANSPORT</p> <p>SEARCH GENERAL AREA OF TRAILER – TOOK PHOTOS ALL AROUND</p> <p>TRAILER</p> <p>WENT ALL THE WAY AROUND TRAILER TAKING PHOTOS</p> <p>AWARE IAN FRIER WAS COUPLE TRAILERS OVER – YES</p> <p>ATTEMPT TO LOCATE ANY EVIDENCE BETWEEN TRAILER 60 AND TRAILER</p> <p>WHERE IAN FRIER WAS LOCATED – I DIDN'T KNOW HIS EXACT LOCATION</p> <p>TOOK PHOTOS I WAS INSTRUCTED TO TAKE</p>
341	JW	NOTHING FURTHER BUT WOULD LIKE SUBJECT TO RECALL
	LM	REDIRECT
	KR	<p>CLARIFICATION – FRAGMENTS OF ONE BULLET IN BED OF PICKUP</p> <p>APPEARED TO HAVE FRAGMENTED; FOUND 2 PIECES THAT NIGHT</p> <p>2 OR 3 SMALLER FRAGMENTS LOCATED IN STATE LAB</p> <p>FRAGMENT SIZES – VERY SMALL; ADVISED WE NEEDED TO GET THE</p> <p>FRAGMENTS OUT TO PRESERVE THEM – TOLD BY DEAN ON ORDER FROM</p> <p>SGT BURKE</p> <p>I WAS JUST AN ASSISTANT ON CASE</p> <p>I DON'T KNOW IF OTHER OFFICERS DID SEARCH OF PERIMETER</p> <p>ACTUAL CRIME SCENE, DEFINE – THE TRUCK, THE BODY, LOCATION FROM</p> <p>TRUCK TO HOUSE, AND AROUND THE TRAILER</p>

		I LOOKED AROUND THOSE AREAS; I WAS NOT ONLY OFFICER DEPUTY MARTINEZ WALKED AROUND WHILE I WAS PHOTOGRAPHING BRIAN MARTINEZ MY CONDITION THAT EVENING – IN GOOD HEALTH, NO FLU; MEMORY IS GOOD DID NOT SEARCH ANYTHING/ANYWHERE ELSE
345	LM	NOTHING FURTHER
	JW	NOTHING FROM DEFENSE
	J	JURORS DO YOU HAVE QUESTIONS OF THIS WITNESS MAY THIS WITNESS BE EXCUSED
	LM	NO OBJECTION
	JW	SUBJECT TO RECALL
	J	EXCUSES WITNESS
	LM	CALL KATHRYN ROSE
347	LM	CALL JENNIFER ANDERSON
	LM	CALL KATHRYN ROSE
	CLERK	SWEARS WITNESS
351	LM	DIRECT
	KR	KATHRYN ROSE BONNER COUNTY CORONER QUALIFICATIONS; ELECTED POSITION, SINCE SEPTEMBER 2003 DUTIES OF CORONER INVESTIGATE SUSPICIOUS DEATH; DETERMINE QUALIFICATIONS – BACHELOR'S IN NURSE, SINCE 1972 WORKED IN LARGE ER FOR 30 YEARS; BACHELORS AND DOCTORATE IN LAW; AM A LAWYER HOW OFTEN TO SCENE OF DEATH – DEPENDS, SINCE BEGINNING OF THIS YEAR INVESTIGATED ABOUT 60 CASES; NONE OF THEM DETERMINED TO BE HOMICIDES; GO TO LOCATION OF ALL 60 VAST MAJORITY OF TIME UNATTENDED DEATH BY NATURAL CAUSES OR SUICIDES OR ACCIDENTAL TOOLS UTILIZED – TALKING TO PHYSICIANS; LOOK AT SCENE, MEDICATIONS, PARALLEL INVESTIGATION TO LAW ENFORCEMENT DEPENDS ON CIRCUMSTANCES OF CASE MAKE DETERMINATION WHETHER BODY TO BE AUTOPSIED – YES FACTORS INTO CONSIDERATION – LISTS REASONS SIGN DEATH CERTIFICATE, ISSUED BY STATE OF IDAHO WHO, CAUSE AND MANNER OF DEATH DETERMINE WHO BY IDENTIFICATION – SEVERAL WAYS, MOST COMMON IS VISUAL THANKSGIVING 2008, RESPONDED TO SCENE OF DEAD BODY; EARLY MORNING HOURS OF NOVEMBER 28 TH RECEIVED CALL – DISPATCHED BY BONNER COUNTY DISPATCH OFF HIGHWAY 95 AT TRAILER PARK IN SAGLE ARRIVED EARLY IN MORNING OFFICERS ON SCENE OBSERVATIONS – SAW BODY LAYING THE ROADWAY, NEXT TO TRAILER CRIME SCENE TAPE UP AT THAT TIME, CROSSED CAN NOT REMEMBER WHO WAS AT TAPE – FAMILIAR FACE TO OFFICERS OFFICERS HAVE TO GO TO ALL CASES – SEE THESE GUYS OFTEN AFTER PAST CRIME SCENE TAPE WALKED TO BODY NURSE SINCE 1972; APPARENT PERSON DECEASED LARGE INJURY TO FACE; BLOOD BEHIND HIS HEAD COLOR, NOT BREATHING CHECKED FOR RESPIRATION, STANDING OVER HIM AND EVALUATING NOT BREATHING; BELIEVE I CHECKED FOR PULSE, EITHER WRIST OR NECK BODY WAS WARM AT THAT POINT DID NOT FEEL PULSE MY JOB TO DETERMINE IF PERSON DECEASED; I AM ONE PRONOUNCES THEM DEAD IDENTIFIED BODY – HAD DRIVER'S LICENSE WITH PHOTO, MATCHED

		<p>ALSO PEOPLE STANDING AROUND IDENTIFIED HIM AS MR HOLT ELVIN HOLT SPENT COUPLE HOURS AT SCENE MAKE SURE BODY NOT TAMPERED WITH CUSTODIAN OF THE BODY BASICALLY SECURE BODY, TAKE CHARGE, AND MOVE SECURE, TAKE CHARGE AND MAKE NOT SURE NOT MOVED; THEN MAKE SURE NO ALTERATION; NO MANIPULATION UNTIL BODY REMOVED FROM SCENE; WATCHING IT AND IMPLOING PEOPLE NOT TO TOUCH IT TIME TO REMOVE THE BODY – PLACE BODY INSIDE STERILE SHEET; WRAPPED AROUND BODY, THEN PLACED IN BODY BAG; IDENTIFICATION BRACELET AROUND WRIST; NAME AND [REDACTED] SECURE LOCK WITH NUMBER ON BAG DID ALL THOSE THINGS WITH MR HOLT GOES TO ONE OF THE FUNERAL HOMES IN SECURE SETTING CAN'T REMEMBER WHICH ONE; TWO IN SANDPOINT COFFELTS AND LAKEVIEW; BELIEVE IT'S LAKEVIEW FUNERAL PEOPLE ASSIST WITH PROCESS OF SECURING BODY BODY STAYED AT LAKEVIEW; IF AUTOPSY THEN GOES TO SPOKANE EMPLOYEES DO NOT LOOK AT BODY – LOCKED AND LOCK HAS TO BE BROKEN DECIDED TO HAVE AUTOPSY PERFORMED; TAKEN TO SPOKANE COUNTY TO MEDICAL EXAMINER'S OFFICE; HOLY FAMILY DIDN'T GO TO THIS ONE, HAD SURGERY HAVE TO GO TO AUTOPSY – NO TALK TO DOCTOR WHO PERFORMED AUTOPSY DOCTOR AIKEN PERFORMED THIS AUTOPSY TALKED TO HER AND READ HER REPORTS LAB WORK AND HER REPORTS LAB WORK FROM DECEASED'S BLOOD COMES WITH AUTOPSY REPORT DETERMINE MEANS AND MANNER OF DEATH MEANS – CAUSE OF DEATH MANNER – IS HOW MEANS OF DEATH – GUNSHOT WOUND TO HEAD MANNER OF DEATH – HOMICIDE</p>
406	LM	THANK YOU
	IR	CROSS
	KR	<p>MANNER OF DEATH – HOMICIDE, DEATH AT THE HAND OF ANOTHER ABLE TO REVIEW LAB WORK AND DR AIKEN'S REPORT CREDENTIALS RN SINCE 1972; STILL AN RN BUT DON'T WORK IN FIELD ANYMORE RIVERSIDE CALIFORNIA ER – TRAUMA NURSE IN EMERGENCY ROOM SAW ALL KINDS OF TRAUMA AND DEAD BODIES BATCHELOR'S IN NURSING AND BATCHELOR'S IN LAW, GENERAL LAW ON HAND TO REVIEW UNATTENDED DEATHS IN GENERAL – CORRECT ACCIDENTS AND SUICIDES ALSO UNATTENDED – ANY DEATH WHERE NOT A PHYSICIAN CARING FOR PATIENT UNATTENDED NOT NECESSARILY A HUMAN BEING ATTENDED DEATH UNDER CARE OF PHYSICIAN IN MEDICAL PHYSICIAN HOSPICE IS VAGUE AREA OF LAW; DIFFERENT INTERPRETATIONS OF IT 60 TIMES THIS YEAR, TYPES OF CASES – UNEXPECTED DEATHS ACCIDENTS, HEART ATTACKS, DROWNING, MOTOR VEHICLE ACCIDENTS, UNDETERMINED TIME OF DEATH – WE DO DETERMINE; I DID ON THIS CASE BASED ON WHEN TIME CALL CAME IN, TALKING TO PEOPLE, CIRCUMSTANTIAL EVIDENCE; NOT LIVER TEMPERATURE LIKE TO TALK TO DOCTORS AND LOOK AT MEDICATION WHEN WARRANTED; DID NOT DO IN THIS CASE</p>

		FUNERAL HOME PROVIDES SECURE SETTING FOR BODY, HOW – BEING IN A LOCKED FACILITY COOLING FACILITY OR BUILDING ITSELF – BUILDING ITSELF WHAT TYPE OF LOCK ON BODY BAG – BLUE PLASTIC LOCK THAT HOOKS THRU 2 ZIPPERS, HAVE TO BREAK TO OPEN; HAS NUMBER ON IT UNIQUE TO THAT LOCK, WOULD KNOW IF REMOVED AND REPLACED REPORTS USED – AUTOPSY REPORT FROM FORENSIC PATHOLOGIST ANALYSIS OF TOXINS IN BLOOD
		MARK DEFENSE EXHIBITS A AND B
	KR	IDENTIFIES
	IR	MOVE TO ADMIT
	LM	NO OBJECTION
	J	A AND B ARE ADMITTED
	IR	RESUMES CROSS
	KR	EXHIBIT A – POSITIVE THC AND ETHYL ALCOHOL AND BLOOD ALCOHOL THC MARIJUANA; BLOOD ALCOHOL 0.18; ETHANOL IS 253 2 ND REPORT – OTHER DRUGS IN SYSTEM – TRAMADOL, SYNTHETIC OPIATE; SIDE EFFECTS LISTED IN REPORT CITED TRANSPORTED TO HOLY FAMILY BY FUNERAL HOME WHEN TRANSPORTED TO HOSPITAL – THE NEXT DAY, DON'T KNOW DATE
421	IR	NOTHING FURTHER
	LM	REDIRECT
	KR	NURSE FOR A LONG TIME; NOT A DOCTOR OR PHARMACIST NOT FAMILIAR WITH TRAMADOL MEASURED IN NANOGRAMS
424	LM	NOTHING FURTHER
	IR	RE-CROSS
	KR	THC CAN CAUSE AGITATION – HAVE NOT SEEN IT IN COMBINATION WITH OTHER DRUGS, YES
425	IR	NOTHING FURTHER
	J	JURORS QUESTIONS NOT SEEING ANYONE WRITING MAY THIS WITNESS BE EXCUSED
	BOTH	NO OBJECTION
	J	EXCUSES WITNESS
425	J	WAIT UNTIL TOMORROW TO CALL NEXT WITNESS
	LM	YES
	J	ADMONISHES JURY EXCUSES JURY
426		JURY EXITS
427	J	GIVE JURY A FEW MINUTES
429	J	EXCUSES SPECTATORS NOT COUNSEL AT THIS POINT
431	J	COUNSEL ASKED TO STAY AS I WATCH THIS CASE UNFOLD, SEEMS TO ME NOT MANY ISSUES THAT ARE CONTESTED WHAT I'M SEEING, MAKING THESE COMMENTS, NOT QUESTION AS TO CAUSE OF DEATH – DOES NOT SEEM TO BE AN ISSUE DOES NOT SEEM TO BE ISSUE AS TO IDENTITY OF WHO PULLED TRIGGER NO ISSUES WITH FORENSIC EVIDENCE HOW MUCH CAN WE STIPULATE TO TO REDUCE IMPOSITION ON JURY WHAT I'M SEEING IS MANY WAYS ISSUES ARE AS STATED IN OPENING STATEMENT CAN WE GET TO THOSE POINTS THAT SEEM TO ME TO BE THE CRITICAL POINTS AND STIPULATE AND AGREE TO UNCONTESTED ISSUES HAVE DISCUSSED WITH COUNSEL
	IR	WE HAVE MADE MANY STIPULATIONS BETWEEN US DEFENSE OPEN WITHIN CERTAIN NUMBER OF PARAMETERS
	J	ITEMS DEFENSE WILLING TO STIPULATE WITHOUT FOUNDATION OR

		PROSECUTION WILLING TO HAVE OR FACTS COUNSEL
	LM	NOT A GREAT DEAL MORE EVIDENCE TO BE INTRODUCED ADEQUATE FOUNDATION
	IR	WANT CLOTHING TO COME IN
	J	ITEMS OF PHYSICAL EVIDENCE CAN STIPULATE TO
	LM	OTHER THAN CLOTHING, MR HOLT, MR ANDERSON'S AND MR FRIER CAN'T THINK OF TO MUCH MORE PHYSICAL EVIDENCE
	IR	DEFENSE HAS PICTURE MS RIVERA TOOK WE HAVE TWO PICTURES THAT WERE TAKEN OUT AT THE JAIL
	LM	SURE
	J	I'M TELLING EITHER SIDE HOW TO TRY THEIR CASE, LOOKING AT FROM STANDPOINT OF EFFICIENCY; IF YOU FEEL IT WOULD BE BEST TO LAY FOUNDATION THAT IS YOUR PREROGATIVE MR MARSHALL MAY OR MAY NOT WISH TO STIPULATE LOOKING TO EFFECTUATE THE TRIAL IN A MANNER THAT IS CONSISTENT WITH EACH PARTIES GOALS AND VIEWS ARE THERE CERTAIN ITEMS OF EVIDENCE THAT CAN BE PRE MARKED
	LM	CLOTHING CAN BE
	J	OTHER ITEMS THAT CAN BE
	IR	I HAVE 2 THAT CAN BE
	J	MR MARSHALL
	LM	NOT OFF THE TOP OF MY HEAD RIGHT NOW
	J	HOW MANY WITNESSES
	LM	SEVERAL TOMORROW BESIDES MRS ANDERSON MR AND MRS ZIARNICK SALLY AIKEN JUSTIN HINES IAN FRIER
	J	PATHOLOGIST ARE THERE ANY OPINIONS/FACTS PARTIES CAN STIPULATE TO
	LM	PROBABLY ISSUE AS TO DISTANCE
	J	CONTACT POINT
	LM	EXACTLY NECESSARY WITNESS
	J	CAN EACH SIDE OPINIONS BOTH SIDES CAN STIPULATE TO WITH REGARD TO DR AIKEN
	IR	ONLY ISSUE
	J	BOTH STIPULATE CAUSE OF DEATH GUNSHOT WOUND
	LM	I CAN
	IR	DON'T SEE WHY NOT
	J	AVOID THE PRELUDE AS TO HOW PERSON DETERMINES GUNSHOT WOUND FOCUS ON ISSUE OF HOW CLOSE WEAPON WAS
	LM	HESITANT - SHE'S MAKING CERTAIN DETERMINATIONS
	J	STIPULATION TO ADMISSION OF CV DON'T KNOW DR AIKEN'S QUALIFICATIONS
	IR	I WOULD LIKE TO QUESTION AS TO SOME OF HER QUALIFICATIONS DON'T WANT TO STIPULATE
	J	OTHER TESTIMONY OF DR AIKEN THAT CAN BE STIPULATED TO
	IR	PICTURES STIPULATED TO
	J	OTHER WITNESSES
	IR	JOSHUA RUSSELL, STUART JACOBSEN
	LM	BELIEVE MR RUSSELL COMING IN ON FRIDAY MORNING - OUT OF STATE WITNESS MR JACOBSEN ON FRIDAY, ONLY DAY AVAILABLE
	IR	THEN DETECTIVE BURKE
	LM	HOPEFUL FRIDAY AFTERNOON, MAY GO INTO MONDAY
	IR	SEVERAL WITNESSES PLANNED TO BE HERE FRIDAY AFTERNOON JUST IN

		CASE
	J	HOW LONG ANTICIPATE YOUR CASE
	IR	3 DAYS AT MOST; MORE LIKE 2 DAYS
	J	PROPOSED JURY INSTRUCTIONS WHERE ARE WE
	IR	MINE ARE READY, TO YOU TOMORROW
	J	MR MARSHALL DOES STATE PROPOSE
	LM	OUTSIDE OF STOCK JURY INSTRUCTIONS DO YOU WANT ME TO PROPOSE THOSE
	J	NOT SURE LEGAL THEORY SEE LESSER INCLUDED INTERWEAVING OF WHAT WAS SAID RELATING TO PERHAPS MR FRIER CAUSING DISCHARGE DON'T KNOW HOW SPECIFIC IN TERMS OF JURY INSTRUCTIONS MY INTENTION TO BE FAIRLY SPECIFIC IF STATE HAS LEFT REASONABLE DOUBT IF MR FRIER'S ELBOW WAS CAUSE, WHAT IS CONSEQUENCE? INTERESTING LEGAL ISSUES
	LM	CAN'T GIVE YOU ANSWER AT THIS POINT PROPOSED STATE'S JURY INSTRUCTIONS TO ADDRESS CAN'T GIVE
	J	HOW LOW DO YOU WANT TO GO, BRANDISHING A WEAPON? DISTURBING THE PEACE AND THEN SELF DEFENSE; DEFENSE OF OTHERS THOSE CAN AND DO OFTEN INVOLVE BEYOND ICJI THE SOONER I CAN GET PROPOSED INSTRUCTIONS THE BETTER GIVE ME TIME TO WORK ON THIS WEEKEND
445	J	ANYTHING ELSE NEED TO ADDRESS
	BOTH	NO
	J	SEE YOU TOMORROW MORNING BE HERE AT 8:30 IF YOU HAVE ANYTHING TO BRING UP WANT EVERYTHING ON THE RECORD WE ARE IN RECESS
446		END

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SUSAN AYERLE
DIVISION: DISTRICT

CASE NO. CR-2008-7529
DATE: OCT 15 2009 TIME: 8:00 AM
CD: 09-252

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS
CHARGE

JURY TRIAL - DAY 3

INDEX	SPEAKER	PHASE OF CASE
903	J	Calls Case
		Present: DEFENDANT IN CUSTODY WITH ISABELLA ROBERTSON; LOUIS MARSHALL FOR STATE
		MARK STATE'S EXHIBITS 25, 26, 27, 28, 29
		MARK COURT'S 6
903	J	GREETES COURTROOM TAKE UP ISSUE OF JUROR'S NOTE SUBMITTED - COURT'S 6 THOUGHT TELL JURY THEY WILL BE RECEIVING INSTRUCTIONS ON ISSUES TRIED AND RECEIVING INSTRUCTION AS RELATES TO CRIME OF MURDER AT THIS TIME SINCE ALL EVIDENCE NOT IN, WILL NOT/CAN NOT INSTRUCT THEM AS TO THAT ISSUE
	IR	ONE OTHER THING CONSULTED WITH MR MARSHALL REGARDING MS ANDERSON WILL ATTEMPT TO TREAT HER AS MY WITNESS AT THE SAME TIME
	LM	GOING BEYOND THE SCOPE OF MY QUESTIONING NO OBJECTION
	J	HOW TO ADDRESS JURY'S NOTE
	LM	AGREE WITH THE COURT
	IR	I AGREE WITH THE COURT
904	J	PLEASE BRING IN THE JURY
905	J	PLEASE BE SEATED; GREETES JURY RECEIVED A NOTE FROM JUROR, RELATED TO ISSUE OF MURDER, FIRST AND SECOND. ALTHOUGH LIKE TO GIVE YOU ADDITIONAL INSTRUCTIONS ON THE LAW I CAN NOT; YOU WILL BE GIVEN INSTRUCTIONS ON ALL ASPECTS OF THE LAW AFTER EVIDENCE AND BEFORE FINAL ARGUMENT BY LAWYERS I CAN NOT COMMENT ON THOSE ISSUES READY TO BEGIN DAY 3
	LM	CALL JENNIFER LEANN ANDERSON
	CLERK	SWEARS WITNESS
	LM	DIRECT
	JLA	JENNIFER LEANN ANDERSON GO BY LEANN DO NOT LIVE IN BONNER COUNTY; LIVE IN IDAHO TIME LIVED IN BONNER COUNTY 2004 TO END OF LAST YEAR END OF 2008 LIVING IN SAGLE; TRAVEL AMERICA; NUMBER 60 HUSBAND AND 2 CHILDREN HUSBAND IS DEFENDANT, STILL MARRIED; GABRIELL AND WYATT GABRIELL 7, WYATT JUST TURNED 2 G A B R I E L L

		<p> VERY LAST SPOT IN PARK TRAILERS ON MY ROW - 6 KNEW MOST NEIGHBORS; LIVED THERE ABOUT 2 YEARS KNOW PATRICK ZIARNICK - BROTHER IN LAW MARRIED TO MY SISTER, CHI Z I A R N I C K I THINK CHI LIVED FROM JUNE 08 UNTIL SEPTEMBER 08 - BEGINNING PATRICK LIVED THERE PART OF THE TIME, LAST FEW MONTHS - AUGUST AND SEPTEMBER WERE MARRIED AT THAT TIME KNOW JUSTIN HINES - CHI AND HIM WERE SEEING EACH OTHER FOR A LITTLE BIT; DATING; A LITTLE BIT - COULDN'T PUT EXACT MONTHS, A TIME PERIOD; APPROXIMATELY CAN'T TELL WHEN STARTED, ENDED WHEN CHI AND PATRICK GOT MARRIED DID NOT GO TO WEDDING; NOT IN BONNER COUNTY; IN CD'A AT HITCHING POST; DON'T REMEMBER DATE DATING RELATIONSHIP ENDED WHEN CHI AND PATRICK GOT MARRIED; JUSTIN AND CHI CONTINUED TO TALK GETTING INFORMATION FROM SISTER; NEVER TALKED TO JUSTIN HINES MET JUSTIN IN PERSON MAYBE 3, 4 TIMES MOST UP TO TIME OF SEPTEMBER 2008 WERE MARRIED BEFORE LEFT MY HOUSEHOLD MARRIED SUMMER OF 2008 INCIDENT WITH MR ZIARNICK AND MR HINES - FAMILIAR NOW VERY FAMILIAR WITH IT, AT THE TIME I WAS FAMILIAR SOMETHING HAD HAPPENED BUT NOT SURE WHAT ALL HAPPENED; NOT THERE; CAN'T TELL YOU DATE WHY DID PATRICK AND CHI LEAVE HOUSEHOLD - BECAUSE I TOLD THEM TO KNOW WHERE THEY WENT TO LIVE - PATRICK'S MOTHER AND FATHER'S HOUSE; BELIEVE IN BONNER COUNTY; WHEREABOUTS IN BONNER COUNTY </p>
914	JLA	<p> CONTINUES - AFTER PATRICK AND CHI GOT MARRIED LAST I SAW OF MR HINES - YES KNOW IAN FRIER - DO NOW; DID NOT KNOW PRIOR TO THANKSGIVING 2008 DID NOT KNOW ELI HOLT - NO; NEVER MET PRIOR JOSHUA RUSSELL - KNOW; HOW - HE WAS AN ACQUAINTANCE BECOMING FRIEND OCCASIONALLY HANG OUT; MORE MY ACQUAINTANCE THAN FRIEND WAS FRIENDS TO BOTH THANKSGIVING 2008 - STARTED DAY, TAKING CARE OF BOYS AND STARTING DINNER; COMING FOR DINNER - JOSH AND PATRICK RUSSELL AND ZIARNICK MR RUSSELL ARRIVED THAT MORNING WITH PATRICK GOT THERE BETWEEN 9 AND 10 JAMES GAVE - LEFT IN PATRICK'S VAN; 2 FRONT SEATS, 2 MIDDLE SEATS, AND BENCH SEAT IN BACK MAZDA MPV PURPLISH BLUE COLOR HUNTING FOR DEER I THINK GOING - DIDN'T KNOW HOW LONG GONE - TOLD THEM TO BE BACK BY 3 CONTINUED TO COOK - CITES MENU TRADITIONAL THANKSGIVING DINNER ARRIVED BACK AROUND 3 NOT SUCCESSFUL AFTER THAT - GUYS HANGING AROUND; ASKED THEM TO PUT UP TABLE SAT DOWN TO EAT 4:30 5 SOMETHING LIKE THAT ATE FOR 45 MINUTES AFTER DINNER WE CLEARED UP TABLE ASKED GUYS TO PUT UP THE CHAIRS DID THE DISHES, BOYS WERE PLAYING, STARTED GETTING BOYS READY FOR ED DARK OUT BY THIS TIME JAMES PATRICK JOSH STAYED INSIDE FOR A LITTLE BIT THEN WENT OUT TO </p>

		JAMES' SHOP; LOCATION CLOSE BY HAS LIGHTING BUT DON'T THINK HE HAD HEAT DON'T KNOW IF HAD COATS ON I DIDN'T GO OUTSIDE THAT DAY; DON'T KNOW IF COLD; KNOW MADE SURE GABRIELL WAS BUNDLED UP STAYED IN SHED/SHOP - I JOSH CAME IN I THINK ABOUT 8 MAYBE FELL ASLEEP ON COUCH; JAMES CAME IN ABOUT 10 PATRICK NEVER CAME IN; DON'T KNOW WHERE HE WENT; DON'T KNOW TIME LEFT JOSH CAME IN THRU FRONT DOOR; I THINK I TALKED TO HIM BUT DON'T REMEMBER IF HE DID SAY ANYTHING WAS ALONG LINES I'M TIRED NO BATHROOM IN SHOP; DON'T KNOW IF HE WENT WHEN CAME IN HOUSE CAME IN ALONE 8 PM, BOYS JUST OUT OF BATHTUB WHERE IS COUCH - LIVING ROOM DESCRIPTION HOUSE - MAY I DRAW IT? IF YOU WANT TO
924	JLA	WILL DRAW LAYOUT OF WHOLE TRAILER
925	JLA	DESCRIBES DRAWING COUCH WHERE JOSH RUSSELL WENT TO SLEEP DRAW WHERE ENTRANCE - FRONT DOOR MUD ROOM/PORCH - DRAWS THAT DRIVEWAY
927	LM	CONTINUES DIRECT
	JLA	LOCATION OF DRIVEWAY AND CAR - 2004 KIA RIO - BLUE DON'T HAVE ANY MORE OTHER VEHICLES JAMES' RED FORD TRUCK
	LM	ASK MARK DRAWING AS AN EXHIBIT
		MARK STATE'S 30
	LM	MOVE TO ADMIT
	IR	NO OBJECTION
	J	30 IS ADMITTED
	JLA	STATE'S 25 IS BACKYARD
	LM	MOVE TO ADMIT
	IR	NO OBJECTION
	J	ALLOW TO SHOW TO JURY 25 IS ADMITTED
	JLA	CONTINUES EXHIBIT 26
	LM	MOVE FOR ADMISSION OF 26
	IR	NO OBJECTION
	J	26 IS ADMITTED
	JLA	JAMES' TRUCK 1969 GMC
	LM	MOVE TO ADMIT STATE'S 27
	IR	NO OBJECTION DO NOT OBJECT TO OTHER
	LM	STATE'S 28 AND 29
	J	THEY ARE ADMITTED
	JLA	IDENTIFIES PHOTOGRAPHS
935	LM	CONTINUES DIRECT
	JLA	DRAWING ON EXHIBIT 30 DESCRIBING AREA AROUND RESIDENCE KNOW PETE GEE - NEIGHBOR IN SPACE 59; IDENTIFIES LOCATION OF HIS TRAILER OFFICERS INTO TRAILER; OTHER WEAPONS IN HOUSE GUNS, KNIVES - THEY TOOK THEM ALL EXHIBIT 28 - RECOGNIZE THE KNIFE AND THE REST OR RUSTY GUN CAN'T MAKE OUT WHAT'S BACK THERE

		THINK GUNS OFFICERS TOOK OUT OF HOUSE STATE'S 29 – VEHICLES, MY CAR, JAMES' TRUCK; WHITE ON IS ELI'S TRUCK
	LM	PUBLISH TO JURY
	IR	NO OBJECTION
	J	YOU MAY, START AT THIS CORNER
939	JLA	AFTER JOSH COMES IN AROUND 8 DON'T SEE JAMES UNTIL HE COMES IN AT 10; CAME DOWN AND SAT DOWN TALKING TO ME AND GABE HE WAS WEARING RED AND BLACK FLANNEL SHIRT, SUSPENDERS, LOGGING PANTS, LOGGING BOOTS I THINK HE'S A LOGGER WHAT HAPPENS WHILE SITTING ON BED – GABE WATCHING JUNGLE BOOK AND WE WERE SITTING THERE TALKING AND LAUGHING ABOUT KING LOOEY WENT ON UNTIL WE HEARD KNOCK ON DOOR 10:56 PM – I LOOKED AT CLOCK WHEN WALKED BY TO GET DOOR BOTH WENT TO DOOR MR RUSSELL ASLEEP ON COUCH; YEAH, DIDN'T PAY ATTENTION, HE WAS JUST THERE LIGHTS ON IN KITCHEN/LIVING ROOM AREA HAD LIGHT IN MUD ROOM – WAS ON ANSWERED THE DOOR – JAMES DID AND I ANSWERED IT WITH HIM RIGHT BEHIND HIM DID NOT RECOGNIZE PERSON; ONE MAN WEARING SKI CAP AND JACKET DESCRIBE SKI CAP – PULL OVER YOUR HEAD; NO FACE MASK, COULD SEE HIS FACE WHAT HAPPENED THEN – JAMES ANSWERED THE DOOR AND THIS GUY ASKED IF HE WAS JAMES ANDERSON AND JAMES ANSWERED YES HE KEPT ASKING JAMES THE SAME QUESTIONS – KNOW JUSTIN HINES 110 POUND DIABETIC FRIEND; JAMES KEPT SAYING YES – GOOD OLD BOY HE KEPT ASKING SAME QUESTION OVER AND OVER
944	LM	SHOW ON DIAGRAM WHERE TAKING PLACE
	JLA	DESCRIBES ON DRAWING DID NOT KNOW WAS ELI HOLT AT THAT TIME
	LM	STATE'S 30
	JLA	DOOR OPENED IN LOOKING OVER JAMES' SHOULDER MR HOLT'S HANDS – DON'T REMEMBER JUST REMEMBER ASKING SAME QUESTIONS OVER AND OVER KNOW JUSTIN HINES AND ARE YOU JAMES ANDERSON HUSBAND ANSWERED – YES TO BOTH QUESTIONS DID NOT SEE ANY WEAPONS THEN JAMES IS OUT ON THE MUD ROOM AND HE CLOSES THE DOOR AND I'M WATCHING THRU THE WINDOW WHO CLOSED DOOR – I THINK JAMES, BUT DON'T KNOW FOR CERTAIN MR HOLT DID NOT COME INTO HOUSE DON'T THINK I CLOSED DOOR – DON'T REMEMBER WINDOW – IN THE DOOR STILL WATCHING THRU WINDOW; HEAR THRU DOOR HE'S GETTING FRUSTRATING ASKING JAMES IF HE KNOWS SHAWN PATRICK THEN SEE GUY RUSH OUT OF SHADOWS ONTO MUDROOM/PORCH CAME FROM THE DARK SIDE OF DRIVEWAY DID NOT RECOGNIZE; HAD BLUE AND BLACK JACKET ON FROM VANTAGE POINT, SEE OUT OF WINDOW SEE WHOLE MUD ROOM LOOK AT AN ANGLE CAN SEE AS FAR AS LIGHT REACHES WHERE WAS GENTLEMAN WHEN FIRST SAW HIM HE WAS RUSHING INTO THE MUDROOM; DID NOT SEE OUTSIDE OF MUD ROOM ELI WAS STANDING – HE OFF THE STEPS IN THE MUD ROOM PROPER; I CAN'T REMEMBER

		<p>STEPS LEADING UP TO DOOR INTO TRAILER HUSBAND THEY WERE ALL IN THE MUD ROOM OTHER GUY COMES RUSHING INTO MUD ROOM – HE STOPPED SHORT OF JAMES; LIKE HE LOOKED LIKE HE WAS GOING TO FOOTBALL TACKLE HIM BUT HE STOPPED SHORT DIDN'T SEE HIM HIT HIM; NOT THAT I COULD TELL BUMP INTO ALL ELI TALKING WAS SAYING – ASKING SAME QUESTIONS A LOT OVER AND OVER AGAIN AND JAMES KEPT ANSWERING HIM THREE OF THEM WALKED OUT OF MUDROOM AND DISAPPEARED FROM MY LINE OF SIGHT WATCHED THEM WALK OUT COULD STILL HEAR WHAT WAS GOING ON – I WAITED FOR A MINUTE, ONCE OUT OF MUDROOM DIDN'T HEAR ANYTHING ELSE; WENT TO CHECK ON BOYS GABRIELLE STILL WATCHING JUNGLE BOOK; WYATT SLEEPING DIDN'T SPEND LONG WITH BOYS – COUPLE MINUTES MAYBE DIDN'T HEAR JAMES COME IN GOT CONCERNED; WENT AND STUCK HEAD OUT FRONT DOOR; DIDN'T SEE ANYTHING; HEARD SOMEONE SAY AND I KNOW IT WASN'T JAMES THAT THEY HAD A GUN AND THEY WERE GOING TO JACK HIM UP HEARD I'VE GOT A GUN AND I'M GOING TO JACK YOU UP – HOW LOUD – COULD HEAR THRU MUDROOM I SHUT THE DOOR AND WENT BACK AND TOLD GABRIELL NO MATTER WHAT HE HEARD HE WAS NOT TO LEAVE THAT ROOM GOT SHOES AND JACKET ON AND WALKED OUTSIDE CLOSET IN LIVING ROOM TOOK ME A MINUTE WALKED OUTSIDE THRU FRONT DOOR; WALKED INTO MUD ROOM AND ONTO THE DRIVEWAY GOT TO DRIVEWAY COULD SEE WHAT – TWO MEN HAD MY HUSBAND PINNED UP AGAINST FRONT OF THEIR TRUCK; SAME TWO MEN UP AGAINST THE FRONT FENDER TRUCK PARKED WITH HEADLIGHTS FACING TOWARDS END OF ROAD HEADLIGHTS DON'T THINK ON TRUCK NOT RUNNING ALONG SIDE OF TRUCK HAD JAMES ON THE FRONT FENDER BY FRONT WHEEL</p>
954	LM	CONTINUES
	JLA	<p>COULD SEE 2 OF THEM PUSHING JAMES AGAINST TRUCK; HAD HIM PINNED THERE DESCRIBE PHYSICALLY – DO YOU MEAN LIKE HANDS SHOULDER JUST KNOW THEY HAD HIM PINNED THERE WANT TO SAY YES THAT I COULD BUT I HONESTLY I WANT TO SAY YES DON'T KNOW IF IT IS FACTUAL, WHAT I REALLY REMEMBER KNOW THEY HAD HIM PINNED JAMES FACING TOWARDS ME; A WAY TO SHOW YOU USE MARK AND MR KENSINGER</p>
	BOTH	NO OBJECTION
	J	OK
	JLA	<p>DEMONSTRATES BACK UP AGAINST THE TRUCK; SURE HAD HIM AGAINST TRUCK JAMES HANDS – I CAN'T REMEMBER ELI FROM WHAT HAPPENED LATER HE'S TALLER THAN ME – I'M 5'6 BUT I HAD TO LOOK UP AT HIM ELI NOT MUCH MUCH SMALLER THAN MR JOHNSON TO MEET HIS EYES HAD TO LOOK UP – DEMONSTRATE WITH MARK</p>

		<p>JOHNSON SAID DO I NEED TO CALL THE COPS AS I WALKED UP ELI TURNED AROUND AND HE CONFRONTED ME WHEN STANDING AT DOORWAY I'VE GOT A GUN - HEARD THAT AS GOING OUT TOWARDS THEM DIDN'T HEAR ANYTHING ELSE AS SOON AS I GOT TO DRIVEWAY SAID DO I NEED TO CALL THE COPS ELI CONFRONTATION - HE TURNS AROUND AND HE COMES AND FACES ME AND ASKING ME QUESTIONS ASKED ME IF I KNOW JUSTIN HINES; HIS 110 LB DIABETIC FRIEND; ASKED IF KNOW CHI - SAID YES SHE'S MY SISTER, STEP/SISTER, SAID YES ASKED IF I KNEW PATRICK - SAME QUESTIONS HE ASKED JAMES TOLD HIM I HAD HEARD JUSTIN HAD GOTTEN BEAT UP, SAID I WAS SORRY BUT HAD NOTHING TO DO WITH MY FAMILY AT THAT TIME I DID NOT KNOW THAT WAS NOT TRUE JAMES HAD NOT TOLD ME WHAT HAD HAPPENED DIDN'T REALLY TALK TO CHI ABOUT THAT, HONESTLY I LOVE CHI BUT I AM NOT CLOSE TO HER AND I DO THAT ON PURPOSE SHE LIVED WITH ME BUT DOESN'T MEAN I INTERACTED WITH HER MY MAIN CONCERN TAKING CARE OF MY BOYS WHEN ELI TURNED AND CONFRONTED ME - MR FRIER WAS AT THAT TIME I DON'T KNOW BECAUSE I'M ARGUMENT WITH ELI AT ONE POINT LOOKED BACK AND SAW IAN IN FRONT DOOR TURNED AROUND TALKING TO ELI OUT BY TRUCK DON'T REMEMBER WHAT JAMES WAS DOING ELI VERY IN MY FACE ELI FROM AGGRAVATED TO YELLING YELLING AT ME - I ASKED HIM WHY DIDN'T COME AT REPUTABLE TIME OF DAY; SAID I WAS HERE, TOLD HIM NO I WAS HERE ALL DAY HE GOT MAD SAID LISTEN BITCH I SAID LISTEN BUCKO YOU CAME TO MY HOUSE MIDDLE OF THE NIGHT OVER SOMETHING THAT HAD NOTHING TO DO SAID LET'S CALL THE COPS THEY ARE THE ONES THAT SENT ME HERE THAT'S WHAT I REMEMBER HE DIDN'T HIT ME, FELT SPIT FROM HIS MOUTH DON'T REMEMBER HIM PUSHING DIDN'T SEE WEAPON, BUT IF THERE WAS ONE WOULDN'T HAVE SEEN ANYWAY, HE WAS RIGHT HERE AND WAS ANGRY DIDN'T SEE GUN TELLING DR BURKE IAN TRYING TO GET BROTHER TO LEAVE BEFORE WENT TO TRAILER - DON'T REMEMBER A LOT OF ANYTHING THAT HAPPENED AFTER THAT REMEMBER STATEMENT ABOUT GUN, HAPPENED BEFORE EVERYTHING ELSE MY LIFE WAS SHATTERED, SHATTERED</p>
1005	LM	COULD WE TAKE BRIEF TIME OUT
	J	5 TO 10 MINUTES ADMONISHES JURY
1007	J	TAKE 5 OR 10 MINUTES LET ME KNOW WHEN READY TO GO
1007		OFF
1015	J	PLEASE BRING IN THE JURY
1016	J	PLEASE BE SEATED MR MARSHALL
	LM	RESUMES DIRECT
	JLA	BOOK READING AT THAT TIME - ONE OF THE ERAGON BOOKS E R A G O N READ PARAGRAPH DURING INCIDENT; WHEN JAMES, ELI, IAN WALKED OFF PORCH; WENT INTO OUR BEDROOM

		<p>READ ON BED WITH GABRIELL DIDN'T HAVE LAND LINE AT THE TIME; HAD CELL PHONE, WE EACH HAD ONE MINE CHARGING IN BEDROOM THINK JAMES HAD HIS PHONE BACK TO CONFRONTATION WITH ELI BY TRUCK; COULDN'T HEAR IAN AND HUSBAND WHEN I LOOKED BACK IAN AT FRONT DOOR LOOKED LIKE HE WAS ABOUT TO GO IN OR TALKING TO SOMEBODY DIDN'T KNOW WHERE JAMES WAS – ASSUMED HE WAS IN THE HOUSE DID NOT SEE JAMES LEAVE AREA WHERE I WAS DIDN'T SEE IAN LEAVE THE AREA DIDN'T REALIZE HE HAD GONE UNTIL I LOOKED BACK AND SAW HIM AT FRONT DOOR</p>
	LM	STATE'S EXHIBIT 4
	JLA	<p>NOT ANGLE LOOKING INTO MUD ROOM – DESCRIBES BETTER ANGLE EXPLAINS USING STATE'S EXHIBIT 4 NO DOOR ON MUDROOM AT THAT TIME – I DON'T THINK JAMES STILL WORKING ON MUD ROOM, HAD TOOLS OUT THERE DISTANCE PERSPECTIVE</p>
	LM	STATE'S 29
1024	LM	HAVE A BETTER PICTURE WITH MR HOLT'S BODY IN IT
	JLA	<p>GOING TO SAY NO DESCRIBES TO JURY USING EXHIBITS 4 AND 29</p>
	LM	<p>STATE'S 4 WE SEE LINE THAT LOOKS LIKE DIRT AND ASPHALT – TRUE DEMARCATON FROM ROADWAY TO DRIVEWAY STANDING IN DIRT/GRAVEL PORTION SAW MR FRIER STANDING OUT DOORWAY – DID NOT SEE HIM GO INTO TRAILER, FOOT ON THRESHOLD COULDN'T SEE AS ELI WAS RIGHT THERE DIDN'T SEE WHERE JAMES WAS APPEARED IAN TALKING TO SOMEONE; ASSUMED JAMES DIDN'T HEAR WHAT HE WAS SAYING WHAT HAPPENED NEXT – AFTER I SAW IAN TURNED BACK TO ELI AND I THINK THAT'S WHEN ELI STARTED GETTING REALLY MAD THAT'S WHEN HE SAID LISTEN BITCH CALLED SISTER A BITCH – DON'T RECALL THAT PART OF IT THREATEN YOU – HE HAD BEEN EARLIER AT THE HOUSE I FELT THREATENED BY THAT DID HE SAY THERE EARLIER TO HURT YOU – WAY HE SAID IT INDICATED HE WAS THERE AND FULLY AWARE OF WHAT I WAS DOING ANYWAY SAY GOING TO HURT YOU – NO MORE AGITATED AT THIS POINT – DID NOT RAISE HANDS HANDS WERE – WEREN'T ON ME; NOT IN POCKETS, HE WAS TOO ANIMATED FOR THAT; ANIMATED WITH HIS HANDS DIDN'T TOUCH ME WITH HIS HANDS TURN AND LOOKED BACK AT HOUSE AFTER SAW MR FRIER AT DOOR – NOT THAT I REMEMBER NEXT THING REMEMBER – JAMES; REMEMBER HIM BEING THERE HE WAS {UNINTELLIGIBLE} HE PUT ME BEHIND HIM – SWEEPING MOTION WITH ARM PHYSICALLY MOVED ME – PUT HIMSELF BETWEEN ELI AND I MR FRIER OVER IN THAT DIRECTION LOCATING MR JOHNSON AND MR KENSINGER TO DEMONSTRATE IAN WAS BY WHITE TRUCK; WE WERE BY THE CAR BY THIS TIME 10 FEET BETWEEN MR FRIER AND GROUP OF 3</p>
	LM	STATE'S EXHIBITS 4 AND 29
1033	JLA	<p>STATE'S 4 – DEMONSTRATES LOCATIONS NEXT THING REMEMBER IS BLAST – GUN GOING OFF WAS BEHIND HUSBAND; SAW BLAST OF GUN</p>

		<p>THAT'S ALL I CAN REMEMBER MIGHT HAVE DESCRIBED TO DETECTIVE BURKE SEEING JAMES REMEMBER SCREAMING AND RUNNING TO MUD ROOM DID NOT SEE WHERE MR FRIER WENT; HAVE NO IDEA IF HE WAS STILL THERE DON'T NOW WHERE HUSBAND WAS AT THAT SECOND; I WAS FREAKING OUT DON'T KNOW WHAT HAND GUN IN DIDN'T TALK TO HUSBAND IN MUD ROOM NEXT SPOKE TO HUSBAND - SCREAMING AND WALKED INTO HOUSE, REMEMBER JAMES CAME IN AND TAPPED ME ON CHEEK TOLD ME THEY THREATENED TO KILL BOYS, KILL YOU AND MAKE ME WATCH HEARD THEM SAY THEY HAD A GUN AND WERE GOING TO JACK HIM UP; DIDN'T HEAR THEM THREATEN ME OR FAMILY HUSBAND'S EMOTIONAL STATE - DON'T KNOW, HE WAS FREAKING OUT IN DIFFERENT WAY, HE'S VERY QUIET, DOESN'T SAY A LOT BUT WHEN HE DOES IT'S IMPORTANT HAD NEVER SEEN HIM LIKE THAT BEFORE HE WAS SCARED DIDN'T HAVE GUN WHEN TALKING TO ME; LAID ON THANKSGIVING TABLE</p>
1038	JLA	<p>TESTIMONY ABOUT WOMAN SAYING WHAT ARE WE GOING TO DO NOW - DON'T REMEMBER SAYING; I REMEMBER SCREAMING AND MY HEART SHATTERING; THINKING OH MY GOD; WANTED JESUS TO COME AND PROTECT US - THAT'S ALL I WANTED HUSBAND SAID THEY HAD MADE THREATS AGAINST THE BOYS AND ME; SAID THEY HAD A KNIFE; HAD IT UP TO HIS THROAT; TURNED AROUND AND WALKED AWAY FROM JAMES THEN, WE WERE IN LIVING ROOM DID NOT SEE KNIFE AT HUSBAND'S THROAT DIDN'T SEE KNIFE REMEMBER HIM ON PORCH CALLING 911 COULD TELL IT WAS BY THE WAY HE WAS TALKING HAPPENED SO FAST, DON'T KNOW HOW LONG AFTER WALKED AWAY FROM HIM DIDN'T SEE HIM BEFORE POLICE ARRIVED; TRYING SO HARD TO GET IT TOGETHER STOOD AT DRYER AND TRIED TO COLLECT MYSELF; GOT THEM DRESSED, WOKE WYATT UP</p>
1042	J	<p>TAKE ANOTHER BREAK ADMONISH JURY</p>
1042	J	<p>WE ARE IN RECESS</p>
1054	J	<p>PLEASE BRING IN THE JURY</p>
1055	LM	<p>RESUMES DIRECT</p>
	JLA	<p>AT SOME POINT TALKED TO DETECTIVE BURKE; WROTE OUT STATEMENT TIME WAS 4 OR 5 IN THE MORNING STILL AT TRAILER TALKED AND WROTE OUT STATEMENT 2ND TIME TALKED TO DETECTIVE BURKE, COUPLE DAYS LATER; WENT TO SHERIFF'S OFFICE; WENT IN AND TALKED TO HIM; DID ANOTHER WRITTEN STATEMENT REMEMBER SAYING ELI ASKED TO CALL COPS OR SAID LETS CALL COPS - DIDN'T SAY ANYTHING HE SAID THEY WERE THE ONES THAT SENT ME HERE AFTER GUN WENT OUT SAW MR FRIER HOLDING HEAD AND RUNNING OFF; CAN SEE IN HEAD - HOLDING HIS HEAD - DEMONSTRATES WALKING BACK AND FORTH IN FRONT OF TRUCK, PACING DON'T KNOW HOW MANY TIMES; THEN I TURNED AND RAN FOR MUD ROOM NOT CLOSE ENOUGH TO MR FRIER TO SMELL IF DRINKING; ELI WAS DRUNK HUSBAND - NOT DRINKING TO MY KNOWLEDGE; COULDN'T TELL AND NORMALLY GIVES SOME INDICATION JOSH RUSSELL - I COULD NOT SAY YES OR NO; DID NOT SMELL IT ON HIM BUT I CAN'T TELL YOU IF HE DID OR NOT MR HOLT WAS DRINKING, NOT SURE HUSBAND OR MR RUSSELL</p>

		MR HOLT, WHEN OPENED DOOR HIT ME HARD
1100	LM	CONTINUES DIRECT
	JLA	TELL CHI - ALL CHI'S FAULT - YES SAID THAT
1100	LM	NO FURTHER QUESTIONS AT THIS TIME
	J	CROSS EXAMINATION
	IR	CROSS
	JLA	WHY MAKE STATEMENT CHI'S FAULT - BECAUSE I TOLD CHI NOT TO MARRY PATRICK WITHOUT TELLING JUSTIN FIRST TOLD HER IT WOULD NOT TURN OUT GOOD, NEEDED TO HAVE DECENCY TO DO IT THE RIGHT WAY, NOT BEHIND HIS BACK, NOT FAIR BACK TO WHERE RAISED - TEXAS; HURRICANES HIT HOUSTON SOLD EVERYTHING WE COULD AND DROVE UP HERE MARRIED WE SAY 7 BUT TECHNICALLY 5 PROBLEMS - MONEY, SOMETIMES JAMES' DRINKING, FAMILY HIS DRINKING - I DON'T DRINK AND DON'T LIKE KIDS TO BE AROUND IT; AND WHEN HE WOULD DRINK WOULD GO ONE OF 2 WAYS; MEAN OR HAPPY I DIDN'T LIKE IT; IT WAS ... MY MOTHER DRANK AND IT WAS HARD TO BASICALLY HAVE TO RAISE MY BROTHERS AND I BECAUSE OF IT; WANTED DIFFERENT STANDARD FOR FAMILY ALCOHOL NOT ALLOWED IN HOUSE DRANK IN SHOP AFTER MOVED HERE IN 2004, MOVED WITH PARENTS LIVED WITH THEM ABOUT 2 YEARS; THEN TRAILER IN TRAVEL AMERICA WORKING MOST OF TIME UNTIL SUMMER OF 08 WHEN INJURED KNEE - DESCRIBES INJURY - MONTH OF MAY MAYBE JUNE - SUMMERTIME THINK STILL GOING PHYSICAL THERAPY IN NOVEMBER STATE'S EXHIBIT 30 DRAW IN TABLE
1105	JLA	DRAW TABLE LOCATION ON STATE'S 30
1106	JLA	CONTINUES TO PLACE FURNITURE ON STATE'S 30
1107	JLA	DRAW BED IN BEDROOM LOCATION OF WINDOW IN RELATION TO BED FRONT DOOR BACK DOOR OTHER FURNITURE IN LIVING ROOM
1108	JLA	FROM EDGE OF TABLE TO WALL ABOUT 4 FEET - PRETTY CLEAR CHAIRS - WERE FROM US AND OUR NEIGHBOR CHARLES - MOSH POSH OF CHAIRS; MOVED AWAY WHEN DINNER WAS DONE NORMALLY SPENT THANKSGIVING WITH PARENTS; PARENTS MOVED TO OKLAHOMA, HAD NO FAMILY, NO ONE PARTICULARLY CLOSE TO INVITED PATRICK AND JOSH RUSSELL NOT ESPECIALLY CLOSE TO THEM; INVITED THEM BECAUSE PATRICK HAD NO PLACE TO GO; CHI IN OKLAHOMA; JOSH IN SAME BOAT - NO WHERE ELSE TO GO PLANNED MENU - DIDN'T KNOW WHAT EVERYBODY LIKES - ELABORATES
1111	JLA	HAVE ARGUED; HAVE GOTTEN LOUD, BOTH OF US ARGUMENTS ABOUT - MOST OF THE TIME BECAUSE OF ME - MY FAMILY HIS DRINKING A LOT OF TIME ME BEING STUBBORN
1112	IR	DO ANOTHER DRAWING PLEASE DRAW THE TRAILERS THAT ARE ON YOUR STREET FRONTS AND BACKS
	JLA	OUR ROW AND ROW NEXT OVER
1114	JLA	CONTINUES TO DRAW 6 IN MY ROW;
		MARK DEFENSE EXHIBIT E
	IR	MOVE TO ADMIT
	LM	NO OBJECTION
	J	E IS ADMITTED
1115	IR	DRAW ANOTHER DRAWING

1116	JLA	DRAWING
1117	JLA	DRAWS IN ROAD AND DRIVEWAY INDICATES LOCATION OF VEHICLES
1118	JLA	LOCATION OF IAN'S PICKUP
	IR	ASK TO HAVE LABELED AT LATER TIME
1119	IR	RESUMES CROSS
	JLA	BEHIND RESIDENCE WAS LANDLORD'S HOUSE NOTHING BUT WOODS AROUND - DEMONSTRATES WOODS ON DRAWING COMBINATION OF OLD AND NEW GROWTH
1120	JLA	LABEL WOODS ON DRAWING PICTURE OF TIRES - LOCATION IN RELATION TO HOUSE; HAD BEEN THERE FOR A WHILE; JAMES DIDN'T KNOW WHAT TO DO WITH THEM I GUESS
	IR	WHAT HAPPENED THAT NIGHT
	JLA	HAD DINNER; HUSBAND IN, MR RUSSELL ON SOFA - DON'T NORMALLY ALLOW HIM TO SLEEP ON SOFA, DIDN'T USUALLY SPEND NIGHT DIDN'T DO FOR MR RUSSELL - HE IMMEDIATELY WENT TO SLEEP; NO CHANCE TO DO IT, DIDN'T KNOW HAD PLANS HOW CLOSE TO HIM, NOTHING JUST CLOSE ENOUGH TO TOSS A BLANKET ON HIM RECALL WEAPONS THAT HUSBAND - DON'T RECALL SPECIFIC ONES - 3 LONG GUNS AND JAMES' BEAR GUN, THINK .44 MAGNUM; LONG GUNS IN GENERAL 12 GAUGE, 22 AND I CAN'T REMEMBER; WERE ANTIQUES OR HEIRLOOMS - CAN'T SAY WHICH KNOCK ON DOOR - WERE IN BACK BEDROOM HOW HARD TO HEAR THINGS BACK THERE - KNOCK LIGHTLY WOULD NOT BE AUDIBLE - HAD TO REALLY KNOCK, ESPECIALLY WITH MOVIE ON WYATT 15 MONTHS AT THAT TIME; STILL NURSING 4 TO 5 TIMES A DAY
1125	JLA	WENT TO DOOR WITH HUSBAND; HAPPENED NEXT MAN THERE ASKED IF HE WAS JAMES ANDERSON AND KNEW JUSTIN HINES VOICE USED - ACCUSATORY; LOUD NOT YELLING BUT NOT SOFT THEN HE KEPT ASKING JAMES SAME QUESTION OVER AND OVER AGAIN VOICE THE MORE HE ASKED THE MORE HE GOT AGITATED - COULD TELL IN HIS VOICE; GETTING MAD IN HIS VOICE DON'T KNOW HOW TO DESCRIBE IT THE MORE HE ASKED IT MORE AGGRAVATED; MORE AGITATED THEN A MAN RUSHED UP OUT OF THE SHADOWS AT MY HUSBAND; RUSHED UP AT JAMES I WAITED FOR A MINUTE; LISTENED AND WHEN THEY WALKED OFF PORCH WENT BACK TO CHECK ON GABE AND WYATT; SAT DOWN AND READ A PARAGRAPH IN BOOK CONCERNED AT THIS POINT - DIDN'T GET CONCERNED UNTIL JAMES DIDN'T COME BACK IN - MAYBE 5 MINUTES THEN WHEN DIDN'T HEAR JAMES COME IN STUCK HEAD OUT FRONT DOOR AND THAT'S WHEN I HEARD SOMEBODY SAY THEY HAD A GUN AND WERE GOING TO JACK HIM UP; WENT TO BEDROOM AND TOLD GABRIELL NOT TO GET OUT OF BED; GOT SHOES AND JACKET ON AND WALKED OUTSIDE SAW THEY HAD JAMES UP AGAINST THE TRUCK AND SAID DO I NEED TO CALL THE COPS THEN ELI CAME AND CONFRONTED ME; ASKING ME SAME QUESTIONS AS JAMES; ASKED IF I KNEW CHI - ASKED IF STEP SISTER - SAID YES KNEW JUSTIN IN FIGHT, SORRY BUT HAD NOTHING TO DO WITH FAMILY MENTION CHILDREN TO ELI OR IAN - WHEN ASKED ELI WHY HE DIDN'T COME AT RESPECTABLE TIME OF DAY CAUSE KIDS WERE ASLEEP DIDN'T SPEAK TO IAN AT ALL AT THIS TIME FEELING
1130	JLA	FEELING COMBINATION OF THINGS - ANGRY BECAUSE SOMEBODY CAME TO HOUSE PERTAINING TO SOMETHING DIDN'T HAVE TO DO WITH OUR FAMILY WAS SCARED TOO I WAS SCARED BUT MORE ANGRY THAN SCARED

		<p>WHAT MADE SCARED – SOMEBODY GOING TO JACK MY HUSBAND UP WITH A GUN</p> <p>FACT THIS GUY I DID NOT KNOW IN MY FACE YELLING AT ME OVER SOMETHING THAT HAD NOTHING TO DO WITH OUR FAMILY; NOT OUR CONCERN; THEY HAD NO REASON TO BE THERE – NONE AT ANY TIME HAVE WEAPON – NO PICK UP ANYTHING OUT OF MUD ROOM – NO CONFRONTATION WITH ELI – DON'T KNOW HOW LONG HAPPENED QUICKLY IN MY MIND'S EYE</p> <p>WHY NOT CALL POLICE – COUPLE OF REASONS; THOUGHT JAMES COULD HANDLE IT; BECAUSE HE'S OUR PROTECTOR OUR PROVIDER TENDENCY TO MAKE THINGS DIFFICULT; IF CAN HANDLE BY OURSELVES WHAT IS EXPERIENCE WITH COPS MAKING DIFFICULT – EXPERIENCES WITH MY MOTHER WHEN THEY JUST MADE THINGS THAT WERE OUT OF YOUR CONTROL SHAMEFUL</p> <p>TESTIFIED EARLIER ELI ALSO SAID SOMETHING ABOUT COPS – SAID THEY HAD SENT HIM THERE; DIDN'T NAME ANY</p> <p>TURNED TO SEE IAN, SHOW WHERE STANDING WHEN TURNED TO SEE IAN</p>
1133	JLA	MARKS LOCATION ON DRAWING UNMARKED DEFENSE EXHIBIT F
1134	JLA	<p>COULDN'T HEAR ANYTHING IAN SAID</p> <p>ELI WAS YELLING – HE WAS MAD</p> <p>AT WHAT POINT START YELLING – ESCALATED, WHENEVER STARTED ASKING ME QUESTIONS HE STARTED AGGRAVATED AS WITH JAMES AGGRAVATED AND ANGRY ESCALATED TO YELLING QUICKLY</p> <p>STARTED REALLY YELLING WHEN SAID LISTEN BITCH</p>
1135	JLA	<p>SPOKE WITH KEITH KENSINGER AFTER SPOKE WITH DETECTIVE BURKE 2ND TIME</p> <p>HAVE SEEN HUSBAND DRUNK; WAS NOT DRUNK THAT NIGHT</p> <p>HAD NOT BEEN DRINKING THAT I KNOW OF</p> <p>PRIOR TO INCIDENT RESULTING IN ELI'S DEATH, CLOSE PROXIMITY TO HUSBAND – IN OUR BEDROOM HE WAS SITTING ON BED, IF EXCESSIVE WOULD HAVE BEEN ABLE TO SMELL</p> <p>HE GOT UP AND GOT A PIECE OF APPLY PIE – GOT THAT IN BETWEEN COMING IN AND SITTING DOWN AND HEARING KNOCK</p>
1137	JLA	<p>WHAT MADE YOU LOOK AT MUD ROOM AND SEE IAN – I DON'T KNOW</p> <p>AT ANY TIME HEAR HUSBAND ASK ? TO COME IN – DON'T REMEMBER HIM, JUST REMEMBER ELI</p>
1138	IR	WOULD LIKE EXHIBIT F
	LM	NO OBJECTION
	J	EXHIBIT F IS ADMITTED
	LM	RE-DIRECT/CROSS
	JLA	<p>TESTIMONY RE LANDLORD'S RESIDENCE – TREES BETWEEN</p> <p>NO ONE SAID SAW ANYONE AROUND TRAILER</p> <p>DOG COSMO WHO NEVER BARKED WENT TO DOOR AND BARKED, A MONTH BEFORE, 2 MONTHS BEFORE THIS HAPPENED</p> <p>LET COSMO OUT WHEN BARKING – WOULDN'T GO FURTHER THAN MED ROOM DOOR</p> <p>NEVER SAW PERSON AROUND</p> <p>MR FRIER ACCUSED OF BEING AROUND TRAILER – I DON'T KNOW, I HAD NOT SPOKEN TO MR FRIER; HUSBAND DIDN'T SAY ANYTHING</p> <p>ONLY DEAD PERSON SAID HANGING AROUND TRAILER – YES</p> <p>SOMEBODY AUDACITY TO COME TO HOUSE IN MIDDLE OF NIGHT ABOUT SOMETHING THAT HAD NOTHING TO DO WITH FAMILY – CORRECT</p> <p>DID YOU FEEL THAT WAY</p>
1143	J	<p>STOP</p> <p>MS ANDERSON YOU MUST RESPOND TO THE QUESTION</p> <p>NOT YOUR OPTION TO ASK QUESTIONS</p>
	JLA	DOES THAT SENTENCE GO TOGETHER

		ASKS AGAIN – AUDACITY TO COME TO HOUSE MIDDLE OF NIGHT THE WAY THEY DID YES; FELT MIDDLE OF THE NIGHT; NOT TO HOUSE PROPER LATE COME TO SEE JAMES OCCASIONALLY DO NOT COME TO HOUSE THEY HAVE TO STAY IN THE SHOP HAD THEY GONE TO SHOP BEEN
1145	IR	OBJECTION – CALLS FOR CONCLUSION
	LM	SHE MADE A STATEMENT
	J	AS TO THAT OBJECTION, OVERRULED
	JLA	HAD THEY CAME TO THE SHOP WOULD CARE MATTER IN WHICH THEY CAME I SPENT VERY LITTLE TIME IN SHOP JAMES' BEAR GUN – HAD THAT, DON'T KNOW HOW LONG HAVE SEEN HIM CARRY IT AND HAVE IT OUT DIDN'T GO HUNTING VERY OFTEN, DIDN'T HAVE TIME, WORKED TOO MUCH COULD HAVE BEEN LOGGER – LEG STILL HEALING ACQUIRED .44 MAGNUM – DON'T REMEMBER BUY IT – I THINK HE ID I DIDN'T BUY IT MR RUSSELL WENT TO SLEEP QUICKLY ON COUCH – MORE ACCURATE TO SAY PASSED OUT – I GUESS SO; KNOWN MEN WHO CAN LAY DOWN AND GO TO SLEEP DON'T REMEMBER IF HE TALKED TO ME OR KIDS BEFORE HE LAID DOWN ON COUCH SPOKE WITH DET BURKE THAT MORNING, SAY YOU WERE AFRAID – I DON'T REMEMBER TOLD DET BURKE NOT AFRAID BUT ANGRY – POSSIBLY, MR MARSHALL, A LOT OF TIME ANGER AND FEAR CORRELATE TOGETHER, CAN BE ANGRY AND AFRAID AT SAME TIME; I WAS COMBINATION OF TWO DIDN'T CALL COPS
1149	LM	NOTHING FURTHER
	IR	NO QUESTIONS
	J	JURORS HAVE QUESTIONS FOR THIS WITNESS
		MARK COURT'S 7, 8, 9
1150	J	EXCUSES JURY; ADMONISHES JURY
	J	READS COURT'S 7
	BOTH	NO OBJECTION
	J	COURT'S 8 RE READ
	LM	NO OBJECTION
	IR	NO OBJECTION
	J	COURT'S 9
	LM	NO OBJECTION
	IR	NO OBJECTION
1152	J	PLEASE BRING IN THE JURY
	J	A KNOCK OR BANG OR KICK
	JLA	BANG NOT KNOCK AFTER DEMONSTRATING
	J	MUDROOM PART OF INSIDE OF HOME
	JLA	YES, IF JUST PORCH NO MUD ROOM GOING TO BE PART OF HOME; PUT A STOVE IN THERE TO MAKE LITTLE SITTING ROOM; ALTERNATE
	J	DID ELI MAKE FISTS
	JLA	NOT THAT I REMEMBER
	J	WHEN SHE SPUN AROUND DID SHE COME UP AND BUMP HIM OR ARM AND MAKE GUN GO OFF
	JLA	CAN'T SAY YES OR NO; IT'S A POSSIBILITY
	J	THOUGHTS WHILE READING BOOK
	JLA	THOUGHT I NEEDED TO LISTEN FOR JAMES; BOOK WAS TO DISTRACT ME, I WAS LISTENING
	J	MR MARSHALL

	LM	MUD ROOM AT TIME HEATED
	JLA	NO; NO CARPET; NO DOOR CONSIDERED PART OF HOUSE, COMING INTO HOUSE A ROOM BEING ADDED ONTO OUR HOME; CONSIDER PART OF HOME ELABORATES, UNDER CONSTRUCTION GARAGE DEPENDS ON IF ATTACHED; SHOP NOT PART OF HOME LOCKED DOOR AT NIGHT; NOT LOCKED MUDROOM HUSBAND CAME UP BEHIND YOU, WENT BACK BEHIND HIM DON'T KNOW WHETHER HE HIT HIS ARM; DON'T REMEMBER HOW BIG POSSIBILITY - CAN'T TELL YOU THAT GUN IN WHICH HAND - NOT SURE, GOING TO SAY PUSHING WITH HIS RIGHT WAS IN HIS LEFT LOVE MY HUSBAND VERY MUCH BUT BECAUSE I LOVE HIM; I LOVE MY HUSBAND BUT HAVE OBLIGATION TO TELL THE TRUTH NO MATTER WHAT IN LINE WITH THAT, STATED NUMEROUS YOU DON'T QUITE REMEMBER, DO REMEMBER A LOT OF BAD THINGS - REMEMBER GOING TO JACK YOU UP
1157	LM	NOTHING FURTHER
	IR	NOTHING FURTHER
	J	EITHER SIDE POTENTIALLY RECALL
	IR	DEFENSE DOES NOT
	LM	NOT AT THIS TIME, POSSIBILITY OF REBUTTAL
	J	TAKE NOON RECESS, BIT LONGER TODAY ADMONISHES JURY TAKE RECESS UNTIL 1:30
1159	J	SPECIFIC IN TERMS OF RECALLING THIS WITNESSES; I DON'T KNOW NEXT STEP NOT SURE WHETHER DETECTIVE BURKE ATTEMPT TO IMPEACH STATEMENTS SHE MADE; MAY BE CALLED BY SUR REBUTTAL; DON'T WANT SITUATION WHERE SHE SITS IN COURTROOM AND THEN CALLED AS WITNESS CONSIDER IF WANT TO HAVE EXCUSED; IF WANT TO RECALL
1200	LM	UNDERSTAND; ERR IN SIDE OF CAUTION POSSIBILITY OF CALLING HER BACK
	IR	IF THAT IS MR MARSHALL'S POSITION I'LL LEAVE DOOR OPEN
	J	NOT GOING TO EXCUSE AS WITNESS EXCLUDED FROM PROCEEDINGS WE ARE IN RECESS
1200		OFF
130	J	PLEASE BRING
	IR	ASK FOR JURY INSTRUCTIONS TODAY HAVE THEM TO GIVE TO YOU
	J	PLEASE BRING IN THE JURY
131	J	GREETES JURY READY TO GO
	LM	CALLS DR SALLY AIKEN
	CLERK	SWEARS WITNESS
	LM	DIRECT
	SA	SALLY SPRING AIKEN MEDICAL EXAMINER, SPOKANE COUNTY; 2 IN SPOKANE COUNTY ACTING CHIEF THIS YEAR; ALTERNATE CHIEF DUTIES 400 FOR SPOKANE COUNTY 150 TO 200 FOR REFERRAL COUNTIES BONNER COUNTY ONE OF THOSE COUNTIES; WE DON'T HAVE FACILITIES - YES SPOKANE COUNTY CHARGES FOR SERVICES PROVIDED - REVENUE SOURCE AND SAVES SMALLER COUNTIES MONEY DIFFERENCES IN LAW IN PERFORMANCE OF AUTOPSY

		<p>ONLY ONE OF 50 ACCREDITED OFFICES – PRACTICE STANDARDS AND GUIDELINES, SO EVEN THOUGH LAWS DIFFERENT, PERFORMING AUTOPSIES AND EVIDENCE THE SAME</p> <p>KATHRYN ROSE RESPONSIBLE FOR LEGAL PART; WE'RE RESPONSIBLE FOR MEDICAL</p> <p>QUALIFICATIONS FOR MEDICAL EXAMINER – PHYSICIAN WHO SPECIALIZES IN FORENSIC PATHOLOGY; MEDICAL SCHOOL RESIDENCY IN PATHOLOGY SUBSPECIALTY FORENSIC 6 YEARS OF TRAINING AFTER MEDICAL SCHOOL; THEN BOARD CERTIFIED</p> <p>ALSO CERTIFIED IN OTHER AREAS</p> <p>BEEN DOING SINCE 1989 – 20 YEARS</p> <p>IT'S A GOOD TYPE OF WORK FOR SOMEONE WHO LIKES TO SOLVE PUZZLES; ODD TO SAY ENJOY, BUT SEPARATE YOURSELF FROM GRIEF TO PERFORM YOUR JOB AND GATHER EVIDENCE</p> <p>DO NOT WORK FOR LAW ENFORCEMENT – INDEPENDENT AGENCY</p> <p>LAW ENFORCEMENT OFTEN INVOLVED BUT SEPARATE UNIT FROM LAW ENFORCEMENT</p>
136	SA	<p>PERFORMED AUTOPSY ON ELVIN HOLT; IDENTIFIED BY BONNER COUNTY ELVIN JOSEPH HOLT; SECURED FACILITY, ARRIVE IN BODY BAG WITH EVIDENCE TAG</p> <p>DON'T BREAK EVIDENCE TAG UNTIL AUTOPSY IS PERFORMED;</p> <p>PHOTOGRAPH TAG WITNESSES TO BREAKING TAG</p> <p>BASEMENT OF HOLY FAMILY HOSPITAL IN SPOKANE</p> <p>SECURED FACILITY; CAMERA, LOCKED</p> <p>TO WATCH HAVE TO SIGN IN</p> <p>BASEMENT OF HOSPITAL</p> <p>REMEMBER PARTS OF THE CASE; HAVE REPORT</p> <p>PERFORMED 7,000 AUTOPSY, CAN'T RECALL EVERY DETAIL</p> <p>HAVE TESTIFIED IN COURT BEFORE, QUIT COUNTING AFTER 50 TIMES, OVER 10 YEARS AGO</p> <p>AUTOPSY REPORT IS</p> <p>LAW ENFORCEMENT CAN TAKE PICTURES</p> <p>THEY ARE THERE PRIMARILY TO OBSERVE, TAKE EVIDENCE WE COLLECT, TAKE PHOTOGRAPHS THEY WANT, SOME WE SUGGEST</p> <p>OFFICERS TYPICALLY ATTEND AND PROVIDE INFORMATION; POLICE REPORTS USUALLY NOT READY</p> <p>AS PART OF INVESTIGATION GET INFORMATION FROM LAW ENFORCEMENT</p> <p>IN WASHINGTON LAW IS 48 HOURS; DON'T KNOW LAW IN IDAHO</p> <p>REASON FOR TIME PERIOD – ONE FAMILIES HAVE NEED TO PROCEED, NOT MORALLY RIGHT TO HOLD, BUT ALSO, ESPECIALLY NOW EVIDENCE DETERIORATES OVER TIME, ADVISABLE TO DO AS QUICKLY AS POSSIBLE; EVEN WITH REFRIGERATION BODIES DECOMPOSE, CAN OBSCURE DETAILS WHEN BODIES COME IN STORED IN REFRIGERATOR UNIT</p> <p>TEMPERATURE IS ON A GRAPH 34 AND 36 DEGREES F</p> <p>SOME VARIATIONS IF WE'RE BUSY AND DOORS OPEN</p> <p>NEED TO KEEP ABOVE FREEZING</p>
142	SA	<p>CONTINUES – REMEMBER THIS AUTOPSY</p> <p>OPEN BODY BAG MYSELF; BREAK THE SEAL</p> <p>DEPENDS ON CIRCUMSTANCES WHETHER HAVE CLOTHES ON</p> <p>BY AND LARGE MANY OF DECEDENTS HAVE CLOTHES ON</p> <p>MR HOLT HAD CLOTHES ON; WEARING HEAVY YELLOW BROWN BOOTS</p> <p>WRAPPED IN COARSE SHEET; HAD WHITE ATHLETIC SOCKS; SEVERAL LAYERS; DENIM JEANS; OLD NAVY SHORTS, PAIR OF ROYAL BLUE SWEAT PANTS CUT OFF, INNERMOST MENS BOXER SHORTS – BLACK</p> <p>LEATHER TYPE JACKET UNFASTENED, NAVY COLORED NYLON, BLACK TEE SHIRT; V NECKED WHITE TEE SHIRT</p> <p>SOME HAD BLOOD SOILING ON THEM</p> <p>WE LOOK FOR BLOOD STAINS, DON'T DO CRIME LAB ANALYSIS</p> <p>LOOK FOR PATTERN OF BLOOD STAINING ON CLOTHING</p>

		<p>CATALOG ITEMS OF PERSONAL NATURE – ITEMS IN POCKET DESCRIBE AS REMOVE LAYERS OF CLOTHING FOUND IN POCKETS: GREEN JEANS – RIGHT KEY RING AND ONE KEY ATTACHED; LEFT FRONT .52 CENTS AND 2 METAL PULL TABS COMMITT STOP SMOKING AID LEFT INHALER ITEMS IN THE LEATHER LIKE JACKET ON OUTERMOST WEAR – RIGHT FRONT RED ACE BRAND LIGHTER; CELL PHONE TURNED OFF; RIGHT ALBUTERAL INHALER; 2 QUARTERS TWO INHALERS – FIRST WAS COMBINATION TYPE INHALER – TWO MEDICATIONS BOTH FOR ASTHMA OR COPD NO WEAPONS IN CLOTHING REMOVE CLOTHING WITHOUT CUTTING – UNLACE BOOTS, PULL OFF SOCKS, ETC., HAVE ASSISTANT ASSIST WITH TAKING CLOTHING OFF – DON'T WANT TO CUT THEM TO INTERFERE NEXT STEP BODY X-RAYED; DEPENDING UPON TYPE OF BODY HEAD X-RAYS IN THIS CASE HAIR, FINGERNAILS, SWABS FROM CAVITIES STANDARD OBJECTS IN LEGAL AUTOPSIES VISUAL EXAM AFTER TAKE OFF CLOTHING CLEAN BODY; VISUAL EXAM TO LOOK FOR VARIOUS THINGS INJURIES ON MR HOLT – FOUND ONE BRUISE ON LEFT THIGH; SMALL ¼ IN CH ON LEFT THIGH JUST ABOVE KNEE CHECKED HANDS – LOOK AND MAKE PHOTOGRAPHS, RED AND BLACK STAINING ON RIGHT HAND; NOTHING ON LEFT; UNABLE TO TELL WHAT MEASURED DROPS – ON THE HAND SMALL BLOOD STREAK ON INDEX FINGER AND ON PALM OF HAND FEW RED DROPLETS – DIDN'T DESCRIBE IN SIZE</p>
151	SA	<p>DON'T KNOW HOW MANY OF 7,000 DEALT WITH GUNSHOT WOUNDS – OVER A THOUSAND PROBABLY BLOOD STAINS, DROPLETS – MANY TIMES SIZE NOT PERTINENT, MEASURE INJURIES NOT BLOOD STAINS IN THIS CASE SAID ONE SIDE BLOOD SOAKED USUALLY NOT PERTINENT ON MR HOLT'S HAND NOTHING LET ME TO THINK PERTINENT, DESCRIBED BEING PRESENT; CALLED THEM DELICATE RED DROPLETS IN HAND, ONE IN CENTER OF PALM COULD HAVE BEEN BLOOD; WASN'T ABLE TO DETERMINE IF IT WAS BLOOD PALM OF HAND SMALL DROPLETS CLOTHING BLOOD STAINS – PRETTY CLEARLY BLOOD AFTER VISUAL EXAMINATION, GET TO WOUND ALL INJURIES DESCRIBED INCLUDING GUNSHOT WOUND JUST BELOW DECEDENT'S LEFT EYE</p>
153	LM	<p>IF I MAY APPROACH STATE'S EXHIBIT 20</p>
154	SA	<p>PHOTOGRAPH OF GUNSHOT WOUND – CHARACTERISTICS OF GUNSHOT – DESCRIBES THOSE CHARACTERISTICS X-RAY METAL IN HEAD AND HAD EXIT WOUND CAME FROM SINGLE PROJECTILE; NON SHOTGUN GUN SHOT EXPLAIN SOOT, ABRASIONS ENTRANCE FROM EXIT – IN THIS CASE NOT DIFFICULT ENTRANCE – CENTRAL HOLE BULLET PASSES THRU INTO CASE BULLET SPINNING AND TRAVELING RAPIDLY; PUSHING WAY INTO SKIN PARTIALLY; BULLET SCRAPES A COLOR OF SKIN OFF AROUND HOLE RIM OF ABRASION – ENTRANCE GUNSHOT WOUNDS WITH RARE EXCEPTIONS – PALM, MOUTH, SOLES OF FEET THOSE CAN HAVE DIFFERENT LOOK</p>

		VAST MAJORITY HAVE RIM SOOT COMES FROM GUN – SMOKE TO MAKE SMOKE ON SURFACE OF SKIN HAD TO BE VERY CLOSE NEAR TO CONTACT – ALMOST CONTACT WOUND TO MAKE AS MUCH SOOT OR SMOKE AS IN THIS PHOTOGRAPH
157	SA	SHOWS TO JURY – DESCRIBING PHOTOGRAPH RIM OF ABRASION EYE ODD APPEARANCE DISTANCE FOR SOOT – NEAR CONTACT HERE LOOSE CONTACT BECAUSE IT'S TOUCHING THE SKIN BUT WITHOUT A LOT OF PRESSURE; MUZZLE OF FIREARM FLAT AND METAL; FACE CURVED; DIFFICULT TO MAKE TIGHT GUN SHOT WOUND ON FACE LOOSE CONTACT – SO MUCH SOOT AROUND THE WOUND SOOT TRICKLED OUT MUZZLE ITSELF IF TIGHT, SOOT IN WOUND ITSELF
200	LM	CONTINUES DIRECT
	SA	FLAP OF SKIN – EYELID: COUPLE OF THINGS, TEARS ON LEFT UPPER EYE LID, TEARS HAPPENED BECAUSE GASES FROM FIREARM WENT INTO SKIN AND EXPANDED, RESULT IN TEARING DELICATE BONES FRACTURED WOUND 5 O'CLOCK TEAR AT EDGE OF WOUND – EXPANDING GASES THAT POOCH SKIN OUT
	LM	EXHIBIT 20
	SA	EYE SLIT IDENTIFIED SPACE BETWEEN UPPER AND LOWER LID – EYE HAS COLLAPSED, HAS NO FLUIDS IN IT
203	SA	SOMETIME RECOVER FRAGMENTS; RECOVERED ONE THAT WAS LARGER IN THIS CASE; TINY FRAGMENTS MOST OF THOSE LITTLE FRAGMENTS DON'T HAVE FORENSIC VALUE USUALLY DON'T RECOVER ALL FRAGMENTS
204	SA	EXIT WOUND – COULD SEE FROM BACK OF BODY CHARACTERISTICS OF EXIT WOUND LACK RIM OF ABRASION – ENTRANCE IN REVERSE; BREAKS, TEARS SCALP OPEN, SCALP TEARS APART; DOESN'T HAVE CENTRAL HOLE EXIT WOUNDS ARE OFTEN LARGER THAN ENTRANCE – ABOUT SAME SIZE IN THIS CASE; ALSO NO SOOT SOOT NOT AERODYNAMICALLY STABLE – ONLY GOING TO SEE SOOT AT ENTRANCE WOUND TWO WOUNDS CONNECTED ONE EXIT WOUND – SUNBURST PATTERN MEASUREMENTS OF WHERE ENTRANCE AND EXIT WOUNDS FOR PATH, FOLLOW PATH OF BULLET THRU BRAIN WHEN WE KNOW CAN PUT ROD THRU ONE THING WE DO PUT BODY IN STANDARD POSITION – DESCRIBES ESTABLISH DIRECTION WITH STANDARD POSITION TRAVELED FROM FRONT TO BACK FROM LEFT TO RIGHT TRAVELED DOWNWARD – TRAJECTORY DOWNWARD FRONT TO BACK, LEFT TO RIGHT, DOWNWARD EXIT WOUND AND ENTRANCE WOUNDS WERE LARGE DIRECTION TO DETERMINE TRAJECTORY DEFECTS IN BRAIN WERE LARGE ESTIMATED 20 PERCENT DOWNWARD ANGLE 20 PERCENT OFF HORIZONTAL AFTER DO CONCLUSION WRITE REPORT – DICTATION OF REPORT DONE DURING AUTOPSY; CORRECTIONS AND MICROSCOPE NO QUESTION GUNSHOT WOUND TO HEAD
210	LM	NOTHING FURTHER
	IR	CROSS

	SA	MORE DAMAGE AT EXIT WOUND WITH MORE OR LESS CONTACT – NO JUST HAVE TO HAVE VELOCITY TO GET OUT OF SCALP PRIOR TO AUTOPSY KNOW CALIBER – DON'T BELIEVE SO, DON'T RECALL INFORMATION PRIOR TO AUTOPSY – CAN I READ WHO PROVIDED – THE INFORMATION PROVIDED BY KIT ROSE, OTHER INFORMATION BY THOSE PRESENT AT THE AUTOPSY – THAT WAS .. LIST WITNESSES BUT DON'T LIST WHO THOSE WERE KATIE RIVERA AND DEAN SATCHELL – NAMES ON WORKSHEET BUT NOT IN REPORT LARGER MAGNUM ROUND CREATE MORE SOOT – YES VARIABLES AS TO AMOUNT OF SOOT YOU GET; OLD GUN POWDER MAKES MORE SMOKE LOT OF VARIABLES
212	IR	NOTHING FURTHER
	J	JURORS QUESTIONS OF THIS WITNESS
		MARK COURT'S 10, 11
214	J	EXPLAINS TO DR AIKEN JUROR QUESTIONS
	BOTH	NO OBJECTION
	J	2 ND QUESTION – COURT'S 11
	LM	NO OBJECTION
	IR	NOT SURE WITHIN DR AIKEN'S SCOPE OF KNOWLEDGE
	SA	ANSWER TO BOTH THE SAME
215	J	OVERRULE THE OBJECTION BRING IN THE JURY
216	J	ASKS QUESTION
	SA	HOW CLOSE GUN TO FACE – LOOSE CONTACT – IN CONTACT WITH SURFACE OF CHEEK, NOT PRESSED HARD GREATEST DISTANCE FROM DECEDENT – WAS IN CONTACT WITH SURFACE OF SKIN
	BOTH	NO FURTHER QUESTIONS
	J	EXCUSE WITNESS
	BOTH	YES
	J	EXCUSES WITNESS
	LM	CALLS
	CLERK	SWEARS
	LM	DIRECT
218	JH	JUSTIN HINES LIVE HERE IN BONNER COUNTY LIVED IN SAMUELS ON HINES ROAD KNOW ELI HOLT – FRIENDS, BEST FRIEND LONG TIME SINCE 6 TH GRADE; DIDN'T GO TO SCHOOL TOGETHER, EXCEPT MAYBE ONE YEAR; ELI OLDER YEAR OR TWO ELI LIVED JUST DOWN THE ROAD WHEN GROWING UP HAD SEEN OFTEN KNOW IAN FRIER, HIS BROTHER, DIDN'T KNOW TOO WELL KNOW PATRICK ZIARNICK – WORK WITH HIM; ANOTHER FRIEND'S OF MINE COUSIN WORKED AT UNICEP – PACKAGING COMPANY LOCATED BY AIRPORT HERE IN SANDPOINT WORKED TOGETHER AT UNICEP FIRST PART OF 2008 KNOW CHI ZIARNICK – WE WERE DATING NOT HER NAME WHILE DATING CHI VAN LOW DATED ROMANTICALLY, DID NOT LIVE TOGETHER DATED FOR 5/6 MONTHS; BEFORE THANKSGIVING EARLY SUMMER 2008; END BEFORE THANKSGIVING; DIDN'T END TOO WELL GOT TEXT MESSAGE SAYING SHE GOT MARRIED; GOT FROM HER DON'T REMEMBER DATE; STILL SUMMERTIME CONTINUED TO TEXT CHI BACK AND FORTH NOT REALLY UPSET, KINDA SAD, CONFUSED

		SEE HER PHYSICALLY – AT STORES MAYBE THROUGHOUT STORES GO UP AND TALK TO HER – NO PATRICK ZIARNICK COMMUNICATION – YEAH, WE TEXTED A COUPLE NIGHTS SHE CAME TO MY HOUSE COUPLE NIGHTS AFTER TEXT, THEN GOT BUNCH OF THREATENING TEXTS FROM PATRICK CHI CAME TO MY HOUSE; NOT INVOLVED ROMANTICALLY THAT NIGHT KNOW JAMES ANDERSON – BROTHER IN LAW OF CHI'S DATING CHI SAW MR ANDERSON – DON'T KNOW HOW MANY TIMES, UNDER 10 RECOGNIZE DEFENDANT MET LEANN ANDERSON; MET HER PROBABLY SAME 10 TIMES
225	JH	RECALL DAY; WORKING AT UNICEP; MR ZIARNICK HADN'T BEEN WORKING AT 9PM BREAK SAW HIM; DURING BREAK WENT TO CAR, SUBARU 4 DOOR; SEATED IN DRIVER'S SEAT JAMES REACHED IN THRU WINDOW, DON'T REMEMBER MUCH; GETTING BEAT BY PATRICK THRU MY WINDOWS STARTED WITH JAMES THEN TO PATRICK SAW PART OF HIS BODY, NOT ALL OF IT CAN'T SAY HOW I KNEW IT WAS JAMES WHAT HAPPENED AFTER THAT – WORKERS FROM INSIDE CAME OUT AND GOT THEM TO LEAVE; DON'T REMEMBER TOO MUCH GOT BEAT UP – COULDN'T FIGHT BACK DON'T REMEMBER HOW MANY TIMES HIT DON'T KNOW IF HIT WITH FISTS MOSTLY HIT IN FACE AFTER THAT STOPPED – THEY (COWORKERS) GOT THEM TO STOP; I REMEMBER SCREAMING AND THEN THE BEATING STOPPED SEE ANYTHING AFTER THAT – NO I WAS STILL IN MY CAR PATRICK ZIARNICK – SAW HIS FACE AFTER THAT OCTOBER 1 2008 DID NOT SEE MR ZIARNICK AGAIN
229	LM	NO FURTHER QUESTIONS
	IR	CROSS
	JH	FIRST REPORT ON OCTOBER 1 ST 2008 – REMEMBER FOR MOST PART SURPRISED IF I TOLD YOU IN REPORT DID NOT KNOW WHO OTHER INDIVIDUAL WAS – I DIDN'T SEE JAMES' FACE; TOLD THAT TO POLICE AT TIME OF REPORT SAID I THOUGHT IT WAS JAMES BUT DIDN'T SEE HIS FACE EXTENT OF INJURIES THAT EVENING – MOSTLY BRUISING, A BITE MOSTLY BRUISING, SORE
231	IR	NOTHING FURTHER
	LM	REDIRECT
	JH	A BITE ON BACK PART OF NECK
	LM	NOTHING FURTHER
	J	JURORS HAVE QUESTIONS OF THIS WITNESS
		MARK COURT'S 12, 13
232	J	READS BOTH QUESTIONS
	BOTH	NO OBJECTION TO EITHER QUESTION
233	J	PLEASE BRING IN THE JURY
234	J	COURT'S 12
	JH	CAN SEE JUST FINE WITHOUT GLASSES, CAN'T READ WELL SAY ANYTHING BEFORE DURING OR AFTER
	JH	NO
	LM	ONE QUESTION
	IR	WHEN DISCOVER BITE
	JH	THAT NIGHT POLICE REPORT ON OCTOBER 1 ST NOTICED RED ABRASIONS ..ETC DETAILED FROM POLICE REPORT

236	IR	NOTHING FURTHER
	LM	RE-DIRECT
	JH	WHEN PULLING PATRICK OUT OF WINDOW LAST THING HE COULD DO WAS BITE ME WHICH HE DID
236	BOTH	NOTHING FURTHER
	J	EXCUSE WITNESS
	BOTH	YES
	J	EXCUSES WITNESS
	LM	CALL PATRICK ZIARNICK
	CLERK	SWEARS WITNESS
	LM	DIRECT
	PZ	<p>PATRICK ZIARNICK ZIARNICK LIVE IN BONNER COUNTY, SAGLE; LIVED THERE ABOUT A MONTH LIVED AT TRAVEL AMERICA PARK NOT SURE OF DATES; OCTOBER OF LAST YEAR TIL THE BEGINNING OF NOVEMBER - 2008 LIVED SPACE VERY BACK LIVED WITH JAMES ANDERSON AND HIS FAMILY KNOW CHI, IS MY WIFE; MARRIED IN AUGUST 2008 RESULT OF THAT MARRIAGE RELATED TO ANDERSON CHI AND LEANN ARE SISTERS GET ALONG WITH JAMES JUST FINE CHI LIVED WITH ME AT ANDERSON HOUSE THANKSGIVING OF LAST YEAR - THAT MORNING JAMES, JOSH RUSSELL, AND I GOING OUT FOR EXPLORING TRIP FOR THANKSGIVING ARRIVED AT ANDERSONS PROBABLY 6 AM; NOT QUITE SURE NO LONGER LIVING AT ANDERSONS' ARRIVED MY CAR, MAZDA MVP; BROUGHT JOSH WITH ME PICKED HIM UP, HE WAS ALREADY WITH ME, DIDN'T PICK HIM UP; STAYED AT HIS HOUSE; IN SANDPOINT HOW LONG AT ANDERSONS' - COUPLE CUPS OF COFFEE EXPLORING KINDA GOING THRU WOODS, NOTHING SPECIAL GUN CLUB ROAD AREA GONE UNTIL MID AFTERNOON, 2 OR 3 O'CLOCK HAD DINNER AT ANDERSON'S THAT DAY PRETTY CLOSE AFTER GOT BACK THAT AFTERNOON DID NOT STAY AFTER DINNER WENT TO JOSH RUSSELL'S HOUSE - AROUND 5:30 I'D SAY GETTING DARK OUT WHEN LEFT DID NOT TAKE JOSH WITH EVERYBODY IN TRAILER WHEN LEFT STAYED AT JOSH'S HOUSE PROBABLY AN HOUR; NO ONE AT HIS HOUSE FROM THERE - HAVING A FRIEND PICK ME UP TO GO TO DINNER IN POST FALLS; TOOK FRIEND'S CAR; ANGELA LARSON MS LARSON SHOWS UP TO PICK YOU UP, LEAVE JOSH'S HOUSE, HEAD OUT TOWARDS JUST PASSED SAGLE, BAD CAR ACCIDENT, WAITED FOR A WHILE DECIDED TO TURN AROUND; CAME BACK TO TOWN; TIME - 7 ISH GUESSING WENT TO SHARON CARTER'S HOUSE WHEN TURNED AROUND SHARON AND JOHN CARTER HERE IN SANDPOINT STAYED THERE FOR REST OF EVENING DAUGHTER TINA AS WELL PHONE CALL OR TEXT FROM JAMES ANDERSON TIME AROUND 10 COUPLE OF TEXT MESSAGES AND THEN COUPLE OF PHONE CALLS TEXTS WERE PICTURES OF JOSH RUSSELL SLEEPING - JAMES MAKING JOKES; JOSH SLEEPING ON COUCH IN TRAILER JOKES ABOUT POSITION HE WAS IN TALKED TO HIM AFTER TEXT MESSAGES SHORT CONVERSATION ABOUT JOSH; THE DAY AND THAT WAS ABOUT IT</p>

		<p>DID NOT TALK ABOUT JOSH DRINKING THAT DAY THAT CONVERSATION LASTED COUPLE MINUTES HEAR FROM MR ANDERSON AGAIN – PHONE CALL – CLOSER TO 11 SOMEWHERE AROUND THERE HE CALLED ME; REMEMBER BITS AND PIECES OF PHONE CALL JAMES CALLED SAID SOMEBODY HAD ARRIVED AT HIS HOME, SOUNDED WORRIED; ASKED HIM IF OK, DIDN'T SPEAK TO HIM AFTER ASKED HIM WHAT WAS GOING ON; 30 SECONDS OF THAT PHONE HUNG UP THINGS HEARD – SOMETHING TO EFFECT JAMES ASKING TWO GUYS THAT SHOWED UP ASKING THEM TO LEAVE COULD HEAR JAMES SAYING LEAVE – HOW KNOW 2 GUYS: JUST FROM EVERYTHING ELSE GOING ON HEARD "HEY YOU TWO GUYS LEAVE" WORDS AS FAR AS I CAN REMEMBER CAN'T REMEMBER WORDS USED LAST TIME TESTIFIED ALSO HEARD SOMETHING TO EFFECT OF YOU NEED TO GET OUT OF HERE ALSO HEARD A YOU KNOW WHAT AND THAT'S WHEN PHONE CLICK HEARD JAMES SAY NEVER MIND ANYTHING AFTER NEVER MIND – HIGH PITCHED VOICE IN BACKGROUND I DIDN'T HANG UP PHONE; WENT DEAD NOT LAST HEARD FROM JAMES ANDERSON WITHIN NEXT MINUTE OR TWO, SHORTLY AFTER HE CALLED ME SAID HE COULDN'T BELIEVE THIS PERSON SOMEONE DEAD – HE HAD SHOT SOMEONE IN EXTREME SHOCK, CAN'T DESCRIBE HOW HE SOUNDED – LASTED MAYBE SECONDS THEN PHONE WENT DEAD ALL CAN REMEMBER FROM SECOND CONVERSATION ATTEMPTED TO CALL BACK AT THAT POINT – TRIED REPEATEDLY TO CALL WHOLE FAMILY – UNABLE TO GET IN TOUCH WITH ANY DID NOT GO OUT THERE; STAYED IN TOWN</p>
253	PZ	<p>TALKED TO DETECTIVE BURKE, DECEMBER 2008 SOMETIME TOLD HIM ABOUT INCIDENT THAT DAY – HE ASKED SOME QUESTIONS AND I ANSWERED THEM TOLD HIM ABOUT THANKSGIVING BELIEVE I TOLD HIM ABOUT 10 O'CLOCK PHONE AND TEXT; BELIEVE TOLD HIM ABOUT 11; AND FINAL PHONE CALL KNOW JUSTIN HINES – FORMER CO-WORKER OF MINE; DATED MY WIFE BEFORE WE WERE MARRIED; DATING HER AT SAME TIME – KINDA SORTA I GUESS WHERE WAS CHI – IN OKLAHOMA WITH HER PARENTS WORK WITH JUSTIN AT UNICEP OCTOBER 1, 2008, DON'T BELIEVE WORKING RECALL THAT DATE – EVENING BEAT JUSTIN UP – REMEMBER THAT WENT TO UNICEP; HAD JAMES ANDERSON WITH ME, THAT WAS IT ARRIVED AT UNICEP IN MY CAR WHEN WE GOT THERE I WENT UP TO JUSTIN'S CAR AND I STARTED YELLING AT HIM; JUSTIN SITTING IN HIS CAR; DIDN'T FIGHT BACK; DON'T KNOW WHERE JAMES WAS, NOT IN MY VISION GOT OUT OF MY CAR; NEVER WITNESSED MR ANDERSON GETTING IN BACK SEAT OF MR HINES SUBARU CAN'T RECALL HOW MANY TIMES HIT LEFT WHEN SOMEBODY YELLED AT ME BELIEVE MR ANDERSON STILL IN MAZDA; PASSENGER SEAT HE GOT OUT OF VEHICLE, FROM THERE I DON'T KNOW; NEVER WITNESSED ANYTHING GET INTO MR HINES VEHICLE – LEANED IN; NEVER OPENED THE DOOR</p>
258	LM	NOTHING FURTHER
	IR	CROSS
	PZ	<p>THANKSGIVING NIGHT – HAD BEER IN JAMES' SHED – I WAS NOT DRINKING HAD NOTHING TO DRINK AT JAMES' HOUSE</p>

		PRELIMINARY HEARING, STATED JOSH WAS AT JAMES' ALREADY PASSED OUT; WHEN JAMES SENT PICTURE PASSED OUT - HE WAS ASLEEP PRELIMINARY HEARING, FIRST OF 11 O'CLOCK CALLS HEARD MUFFLED VOICES IN BACKGROUND; HEARD JAMES SAY GET DRUNK PERSON OFF MY PROPERTY; REMEMBER SAYING AT PRELIMINARY HEARING REMEMBER MOVEMENT, TALKING, NO CLARITY COULDN'T HEAR ANYTHING HEARING THAT'S WHY I HAVE THIS THING RIGHT HERE; NEVER MIND, SCREAM AND PHONE SHUT OFF, CAN'T REMEMBER ANYTHING ELSE WHY GO TO UNICEP ON OCTOBER 1 ST - ORIGINAL WHY GOING THERE TO TALK TO HIM - TO MR HINES, LAST MINUTE CHANGE OF MIND THAT'S WHAT HAPPENED; TALK ABOUT LEAVING MY WIFE ALONE - TEXT MESSAGING, CALLING SAW MESSAGES ON HER PHONE; TEXT BACK AND FORTH COUPLE DIFFERENT TIMES, SAID HE WASN'T GOING TO STOP DOING IT POINT WHEN GOT TEXT MESSAGE HE SAID NOT GOING TO STOP SEEING YOUR WIFE - CAN'T REMEMBER DATE IN SEPTEMBER - WANT TO SAY PROBABLY CLOSE TO END MAYBE
303	IR	NOTHING FURTHER
	LM	RE-DIRECT
	PZ	TEXT MESSAGES BACK TO JUSTIN HINES - YES, WE TEXTED EACH OTHER CAN'T REMEMBER EXACT WORDS, KNOW I WAS UPSET HEADING TO UNICEP THAT EVENING JUST JAMES ANDERSON; JOSH RUSSELL WAS NOT WITH ME THAT NIGHT; JUST GOING TO TALK IT OVER WHEN HEADED THERE; HADN'T FORGOTTEN ABOUT TEXT MESSAGES, KNEW I WAS UPSET, WHATEVER CAME UP CAME UP
304	LM	NOTHING FURTHER
	IR	NOTHING FURTHER
	J	JURORS QUESTIONS NOT SEEING ANYONE WRITING EXCUSE THIS WITNESS
	LM	NO OBJECTION
	IR	NO OBJECTION
	J	EXCUSES WITNESS AFTERNOON RECESS FOR ABOUT 15 MINUTES
305	J	ADMONISHES JURY
306		OFF
321	J	PLEASE BRING IN THE JURY
322	J	YOUR NEXT WITNESS
	LM	CALLS CHI ZIARNICK
	CLERK	SWEARS WITNESS
	LM	DIRECT
324	CZ	CHI LYNNE ZIARNICK PATRICK ZIARNICK HUSBAND, LITTLE OVER A YEAR 8-16-08 GOT MARRIED LIVE IN SAGLE; BY BUDS CLUB ROAD OFF GUN CLUB ROAD LIVED THERE 3 WEEKS AGO; BEFORE THAT WITH FRIENDS LIVED WITH LEANN ANDERSON - WHEN GOT MARRIED; 3 MONTHS TOTAL KNOW JUSTIN HINES HAD ROMANTIC INVOLVEMENT WITH HIM; BEGINNING OF END 2007 BEGINNING 2008; ENDED RIGHT BEFORE I GOT MARRIED THANKSGIVING 2008 NOT LIVING WITH ANDERSONS I WAS VISITING PARENTS IN OKALAHOMA, IN TEXAS VISITING OTHER RELATIVES; PATRICK STAYED HERE LEFT ON 24 TH OF NOVEMBER; RIGHT BEFORE THANKSGIVING INCIDENT BETWEEN PATRICK AND JUSTIN AROUND OCTOBER 1 ST - I WAS AT WORK; LITEHOUSE

		<p>THAT EVENING WORKING AT LITEHOUSE; FOUND OUT ONE OF JUSTIN'S FRIENDS THAT WAS FRIEND OF MINE ALSO CALLED AND TOLD ME - NAME MICHELLE</p> <p>MET ELI HOLT TWICE, DIDN'T KNOW HIM BEFORE INCIDENT</p> <p>KNOW WHO IAN FRIER IS; SEEN HIM AROUND</p> <p>DON'T KNOW HIM</p> <p>POLICE OFFICERS QUESTIONED ABOUT INCIDENT WHEN I GOT HOME FROM WORK THAT EVENING - OCTOBER 1ST; AROUND 11</p> <p>LIVING WITH ANDERSONS AT THAT TIME</p> <p>OFFICERS CAME TO ANDERSON'S TRAILER; I HAD JUST GOTTEN HOME</p> <p>I LET THEM COME IN; DON'T KNOW IF JAMES WAS HOME</p> <p>DIDN'T LEAVE AFTER POLICE LEFT</p> <p>I WENT TO BED</p> <p>OFFICERS CALLING FOR JAMES, DIDN'T GO LOOK FOR HIM; BABY SLEEPS IN THEIR ROOM</p> <p>I BELIEVE THEY WERE HOME, DIDN'T GO BACK THERE TO SEE</p> <p>DIDN'T TALK ABOUT IT WITH SISTER AFTERWARDS</p> <p>MY SISTER NEVER CAME OUT OF HER ROOM SO NO WE DIDN'T TALK ABOUT IT</p> <p>OFFICER KOCH CALLED ME ON PHONE - CELL - GOING HOME ONE DAY, HE CALLED A COUPLE OF DIFFERENT TIMES</p> <p>TALKED TO LEE ANN OR JAMES ABOUT THOSE - NO, JUST TO PATRICK</p> <p>FIRST TIME OFFICERS CAME TO TRAILER PATRICK NOT THERE; I CALLED ON PHONE FOR HIM</p> <p>OFFICERS CAME IN CALLING FOR JAMES; THEY WANTED TO NOW IF PATRICK WAS THERE, MORE THAN JAMES</p> <p>TOLD THEM THOUGHT HE WOULD BE HOME</p> <p>HIS CAR WASN'T THERE</p> <p>OFFICERS AT TRAILER FOR - WE SPOKE AND THEY LEFT BUT THEY DIDN'T REALLY LEAVE, CAME BACK WITH FLASHLIGHTS, IN AREA FOR COUPLE HOURS</p> <p>DIDN'T KNOW WHERE MY HUSBAND WAS, STAYED OUTSIDE SMOKING FOR A LITTLE WHILE</p> <p>HUSBAND WOULD ONLY BE IN OUR ROOM OR BATHROOM AND HE WASN'T THERE; CHECKED THOSE PLACES, BUT NOT LEANN'S ROOM</p> <p>DON'T REMEMBER NEXT TIME SAW LEANN</p> <p>BELIEVE HER CAR IN DRIVEWAY</p> <p>JAMES DROVE LEANN'S CAR TOO</p>
334	LM	NOTHING FURTHER
	IR	NO QUESTIONS
	J	JURORS HAVE QUESTIONS
		MAY THIS WITNESS BE EXCUSED
	BOTH	NO OBJECTION
	J	EXCUSES WITNESS
	LM	CALL IAN FRIER
	CLERK	SWEARS WITNESS
	LM	DIRECT
335	IF	<p>IAN FREIR F R E I R</p> <p>LIVE IN BONNER COUNTY 24 YEARS; 24 YEARS</p> <p>COUPLE YEARS IN REDMOND OREGON</p> <p>KNEW ELI HOLT; STEP BROTHER; 29 YEARS OLD</p> <p>DID NOT GROW UP IN SAME HOUSEHOLD; HE WAS WITH STEPDAD</p> <p>SAW OFTEN</p> <p>KNOW JAMES ANDERSON - HE KILLED MY BROTHER</p> <p>DID NOT KNOW PRIOR TO THAT NIGHT</p> <p>KNOW PATRICK ZIARNICK - FROM THIS SITUATION; DIDN'T KNOW BEFORE THIS SITUATION</p> <p>KNOW JOSHUA RUSSELL - THE SITUATION</p>

		<p> DID NOT KNOW PRIOR TO THIS LIVED IN TRAVEL AMERICA TRAILER PARK; 2008 SPACE 38 LIVED WITH GIRLFRIEND AND 3 KIDS; AUBREY ROUNSVILLE BABY IS MINE - 3 OTHERS 7 AND 10 RELATIONSHIP WITH THEM - FATHER; ACTED AS THEIR FATHER NOT WITH AUBREY; GOOD RELATIONSHIP WITH HER; WE'RE WORKING ON SEEING DAUGHTER OWN VEHICLE - 2001 FORD F250 BOUGHT NOVEMBER 2008; BOUGHT FROM GUY, CLYDE, ALGOMA TRUCK SERVICE IN SAGLE OFF HIGHWAY 95 I HANG DRYWALL/SHEET ROCK - DOING FOR 5 YEARS THANKSGIVING 2008 - REMEMBER - STARTED DAY HANGING OUT WITH KIDS AND AUBREY, LIVING IN 38; RENTING HOUSE IN COCOLALLA; MAJORITY OF TIME AT NUMBER 38 NIGHT BEFORE THANKSGIVING AT AUBREY'S HOUSE GOT UP 9 AM; STAYED UNTIL 3 PM 2:30 - MID AFTERNOON WENT TO SAGLE GRANGE HALL - BELOW SHEPARD LAKE I BELIEVE; TAKE TALACHE ROAD THANKSGIVING DINNER, FAMILY GET TOGETHER FRIENDS AND FAMILY HOW BIG - 2 TIMES AS BIG AS THIS ROOM HOW MANY PEOPLE - 100 MAYBE ELVIN WAS BROTHER, WENT BY ELI HE WAS THERE HE ARRIVED SEPARATELY IN HIS PICKUP - RED CHEVY LUV DIDN'T TAKE AUBREY AND KIDS; SHE CAME SHORTLY AFTER ME IN SUBARU SPENT AT GRANGE HALL - 5 HOURS DRINKING - TWO COCKTAILS THINK RUM BROTHER WAS DRINKING; DON'T REMEMBER, KNOW HE WAS DRINKING HAD GOOD TIME AT GRANGE HALL LEFT 7:30 TO 8 UNUSUAL TO CONSUME - FAIRLY REGULAR; DIDN'T FEEL INTOXICATED WHILE DRIVING BACK; WENT TO AUBREY'S AUBREY DROVE SUBARU BACK; THINK SHE LEFT BEFORE US AT TRAILER WHEN ARRIVED BACK THERE I FOLLOWED ELI - HE DROVE HIS PICKUP GOT TO AUBREY'S HUNG OUT WITH KIDS, VISITED </p>
343	IF	<p> DIDN'T DRINK AT AUBREY'S STAYED THERE ABOUT AN HOUR OR SO WENT TO TARA'S FIRST TRAILER IN TRAVEL AMERICA GOT THERE IN MY PICKUP HOW FAR FROM 38 TO 1 - 500 YARDS WHY DIDN'T WALK - JUST BOUGHT NEW PICKUP, SHOWING IT OFF BROTHER HADN'T SEEN NEW PICKUP YET I DROVE TO TARA'S - STILL IN TRAILER PARK STAYED THERE HOUR AND A HALF ANYBODY ELSE THERE - NO JUST ELI, TARA, AND I DRANK 3 COCKTAILS - 3 LIQUOR DRINKS - VODKA DON'T REMEMBER ANYONE ELSE CAME OVER - POSSIBLE MOOD - HAPPY AT THAT POINT; READY TO GET BUZZ ON; NOT PLANNING ON GETTING DRUNK, GET IN MOOD HANG OUT WITH BROTHER WAS GETTING DRUNK BROTHER DRANK VODKA WHILE THERE; DON'T KNOW HOW MUCH AUBREY DID NOT COME OVER TIME LEFT TARA'S - 9:30 PLANNED - GOT PHONE CALL FROM TRACY WHO OWED ME MONEY FOR FIREWOOD I HAD CUT AND HADN'T WANTED TO PAY - I CALLED HIM </p>

		<p>HE WAS BLOWING ME OFF; BROTHER GOT ON PHONE, MY UNDERSTANDING MEET AT LIBRARY IN SANDPOINT OWED ME \$70 WHY PUT BROTHER ON PHONE – CAUSE HE CAN PERSUASIVE WAY, TAKE CARE OF LITTLE BROTHER UPSET WITH TRACY – AGGRAVATED, KNEW HIM PRETTY WELL LEFT ABOUT 9:30 – ELI DRIVING MY PICKUP ELI'S PICKUP AT AUBREY'S HOUSE – SPACE 38 NEVER GOT IN ELI'S PICKUP AGAIN THAT EVENING WHERE GO – FROM TARA'S WENT TO AUBREY'S TO LET HER KNOW GOING TO 219 AND I THOUGHT WE WERE GOING TO MEET TRACY; THINK ELI GETTING ME OUT OF MAKING A FOOL OF MYSELF; BEING A DORK SAYING YOU WERE GOING TO KICK HIS ASS – NO JUST SAYING HE NEEDED TO PAY ME; DON'T THINK ELI THINKING ABOUT THAT HOW LONG AT AUBREY'S – COUPLE MINUTES, GOT OUT OF TRUCK, ELI DID NOT GET OUT OF TRUCK LEFT TRAILER PARK, STRAIGHT TO SANDPOINT TO 219 – BAR HERE IN TOWN TIME – 10:00 WAS KEEPING EYE ON CLOCK – GET BACK TO KIDS, OUR GOAL – ME AND ELI WANTED TO GET BACK NOT TO MUCH AFTER 10:30 11 – SEE IF CATCH OLDEST SON, WANTED TO WATCH MOVIE WITH ELI; AT AUBREY'S CONSIDER HIM TO BE MY SON STAYED AT 219 TEN, FIFTEEN MINUTES HAD SHOT OF WHISKEY; WELL WHISKEY; DIDN'T SEE ANYONE I KNEW THEN WENT TO CONNIE'S LOUNGE, BAR PORTION STAYED THERE 20 MINUTES SHARED LONG ISLAND ICED TEA SAW AARON FAWCETT AND A FEW OTHER PEOPLE TALKED TO THESE PEOPLE</p>
	J	WITNESS NODDED HEAD IN RESPONSE
	LM	HAVE TO VERBALLY RESPOND
352	IF	<p>HAD TO BE GETTING CLOSE TO 11 DIDN'T GO TO LIBRARY – I'D FORGOTTEN BY THAT TIME FEELING MORE DRUNK ABLE TO GET INTO TRUCK; ELI PULLED ME OUT OF BAR, MAKING A FOOL OF MYSELF, BEING LOUD AND OBNOXIOUS; NO POINT FELT BLACKOUT; DIDN'T HAVE TO BE CARRIED LEAVE CONNIE'S ELI DRIVING; TO TRAVEL AMERICA, REMEMBER THE TRIP; READY FOR BED WE'RE TALKING DURING THAT TIME – TELLING ME WHAT AN IDIOT I AM; DIDN'T LIKE MY RAP MUSIC, PUNK LITTLE BROTHER GOT TO TRAVEL AMERICA; PASSED AUBREY'S HOUSE, ENDED UP AT JAMES ANDERSON'S HOUSE – DIDN'T KNOW THAT AT THE TIME DIDN'T KNOW WHERE HEADED; CONFUSING PASSING AUBREY'S HOUSE; MENTIONED JUSTIN, SAID THAT SOMEONE THAT BEAT UP JUSTIN MIGHT BE STAYING OUT IN TRAILER PARK; KNEW JUSTIN DIDN'T KNOW ABOUT JUSTIN GETTING BEAT UP 2 BLOCKS FROM AUBREY'S ROW CONVERSATION LASTED A MINUTE AT THE MOST PULL UP RIGHT IN FRONT OF TRAILER, LEFT SIDE OF SHOULDER IN ROADWAY I WAS IN PASSENGER SEAT; JUST ASKING HIM WHAT WE WERE DOING; HE SAID JUST WAIT LISTENING TO MUSIC AT THAT POINT, EITHER MUSIC OR ROCK STATION BROTHER LIKED COUNTRY AND ROCK MUSIC ABOUT A 4 ON SCALE 1 TO 10 ELI SHUT DRIVER'S DOOR WHEN HE GOT OUT</p>

		<p> TRUCK RUNNING GAS ENGINE HEADLIGHTS ON – YEAH, NO DON'T THINK THEY WERE WINDOWS UP WATCHED BROTHER THRU WINDOW; SAW HIM GO TO DOOR AND KNOCK DIDN'T HEAR NOTHING HE CAME OUT TO TRUCK, BY DRIVER'S SIDE DOOR WITH JAMES TRUCK STILL RUNNING WINDOWS UP; MUSIC ON I WAS JUST SITTING COULDN'T HEAR CONVERSATION AT THAT POINT NO PHYSICAL ALTERCATION DIDN'T SEE BROTHER LAY HANDS ON JAMES CONVERSATION GOT MORE INVOLVED BROTHER STARTED RAISING VOICE TURNED OFF MUSIC AND ROLLED DOWN DRIVER'S SIDE WINDOW ELECTRIC – HALF WAY UP ENGINE STILL RUNNING MUSIC ALL THE WAY OFF JAMES AND ELI IN RELATION TO ME – BY DRIVER'S DOOR I JUST LEANED OVER; HUNCHED OVER TO LEFT TO HEAR ELI WAS ASKING JAMES IF HE KNEW PATRICK ELI LOOKING FOR PATRICK BECAUSE HE HAD BEATEN UP JUSTIN HEARD BROTHER SAY KNOW PATRICK ZIARNICK MR ANDERSON NEVER SAID ANYTHING – SHAKING HIS HEAD NO WITH DUMB LOOK ON HIS FACE DIDN'T SEE MRS ANDERSON UP TO THAT POINT DID NOT KNOW MRS ANDERSON PRIOR TO THAT NIGHT DIDN'T KNOW MR ANDERSON – DIDN'T RECOGNIZE WHEN CAME TO TRUCK BROTHER GETTING HEATED BECAUSE JAMES WOULDN'T ANSWER HIS VOICE WAS RAISED HIS HANDS DOWN AT HIS SIDE – MID ABDOMEN – DEMONSTRATES ELI AND JAMES FOOT AND A HALF APART – DID NOT PUSH EACH OTHER – ABSOLUTELY NOT AFTER ELI STARTS TO RAISE BOTH JAMES DOES NOT RESPOND DIFFERENTLY ASKED IF JAMES INVOLVED IN IT; FROM WHAT I COULD HEAR HE WAS ACTING ON HEARSAY, ASKING JAMES IF INVOLVED, SHAKING HEAD NO WITH DUMB LOOK ON HIS FACE 3 MINUTES TOOK PLACE </p>
402	IF	<p> THEN, CONVERSATION HEATED AND LOUD AT THAT POINT HEARD DOOR CLOSE ON FRONT PORCH HEATED AND LOUD – JUST ON MY BROTHER'S PART ONLY ELI BEING LOUD HEARD DOOR OPEN AND SHUT – SHE CAME OUT CHARGING ELI – SAYING F YOU, QUIET NIGHT; SAID SHE WOULD CALL THE COPS AT THAT POINT REACHED OVER AND SHUT OFF TRUCK AND GOT OUT GETTING OUT TO CALM DOWN SITUATION GOT OUT PASSENGER'S SIDE LEANN AT THAT POINT TO LEFT OF JAMES AND ELI ELI IS GETTING IN HER FACE BECAUSE SHE'S BEING AGGRESSIVE ELI STARTS YELLING AT LEANN REMEMBER LEANN SAYING DO YOU WANT ME TO CALL THE COPS; ELI SAID CALL THEM HAD KEYS; HAD 2 SETS OF KEYS; ONE WAS IN MY POCKET OR HAND OTHER SET WITH ELI I KEEP BOTH – EXTRA SET IN CONSOLE; HE TOOK SO I WOULDN'T DRIVE THERE'S YELLING; NEVER SAW ANYTHING PHYSICAL TOOK ME SECONDS TO GET AROUND TRUCK AT THAT POINT I GOT OUT OF TRUCK BY TIME GOT TO FRONT JAMES HAD </p>

		<p>STARTED MOVING TOWARDS HOUSE; I WENT TO LEANN, TOUCHED HER ARM AND TRIED TO APOLOGIZE; TRIED TO APOLOGIZE AND GET OUT OF THERE REMEMBER SAYING I APOLOGIZE TO LEANN; SHE BRUSHED ME OFF THEY'RE IN EACH OTHER'S FACE, YELLING BACK AND FORTH ELI AND LEANN ANYTHING SAID - CHI WAS A BITCH AND WHORE AND RUNNING AROUND - ELI CALLED CHI A BITCH TO LEANN; LEE ANN SAYING JUSTIN DESERVED TO GET BEAT UP STAYED WITH ELI AND LEANN JUST A FEW SECONDS; THEN I TURNED AND WALKED TOWARDS HOUSE -TURNED TO RIGHT</p>
407	LM	DEFENSE EXHIBIT F
	IF	<p>DEMONSTRATES ON EXHIBIT F POSITIONS OF SELF, LEANN, ELI, AND JAMES - ALREADY IN HOUSE</p>
410	IF	<p>SAID DON'T WANT TO SHAKE YOUR FUCKING HAND - REMEMBER THAT SPECIFICALLY LET THE DOOR SWING OPEN, PULLED GUN AND COCKED IT BIG REVOLVER WOULD KNOW IT IF SAW IT</p>
	LM	STATE'S 24
	IF	<p>IDENTIFIES STATE'S 24 DARK SAW STOCK OF GUN, LOOKED BROWN THEN WAS IN LEFT HAND PHONE IN RIGHT HAND COCKED THE TRIGGER, THE HAMMER - DID WITH HIS LEFT THUMB SAID GET THE FUCK OUT OF HERE FIRST AND ONLY THING HE SAID I SAID OK, SORRY WENT DIRECTLY TO ELI NOT INSIDE HIS HOUSE AT THAT TIME HADN'T STEPPED INTO HOUSE LEFT FOOT ON STEP INTO HOUSE MY HAND MIGHT HAVE BROKE THE THRESHOLD LEFT THE MUDROOM - DIRECT RIGHT TOWARDS ELI TWO OF MY STEPS TO GET OUT OF MUDROOM I'M 6'4" ELI WAS 5'5" MAYBE COUPLE STEPS OUT OF MUDROOM MOVING QUICKLY AT THAT POINT; DIDN'T RECOGNIZE THE THREAT BECAUSE JAMES HAD BEEN SO DOCILE YELLING LET'S GET THE HELL OUT OF HERE GET THE FUCK OUT OF HERE, NOT YELLING LOUD, YELLING BUT NOT DEEP YELL ELI AND LEANN STILL IN SAME PLACE DIDN'T MOVE STILL INVOLVED YELLING AT EACH OTHER ELI DIDN'T LOOK AT ME LEANN DIDN'T LOOK AT ME YELLED LET'S GET THE FUCK OUT OF HERE 3 TIMES MAYBE 15 STEPS; 10 STEPS DIDN'T KNOW WHERE JAMES WAS, THOUGHT HE WAS IN HOUSE HEARD DOOR SHUT WHEN LEANN CAME OUT; THOUGHT HE WAS IN HOUSE REACHED BROTHER; GRABBED HIM, PUT RIGHT SHOULDER INTO HIS CHEST TO GET HIM MOVING AS FAST AS I GRABBED HIM JAMES SHOT HIM LEANN TO RIGHT OF US DIDN'T SEE JAMES</p>
416		<p>DEMONSTRATES HOW GRABBED BROTHER; HEAD ON RIGHT SIDE OF BODY MOVED HIM ABOUT 5 INCHES NEXT THING REMEMBER FELT SOMETHING ON RIGHT SIDE OF ME GUN WITHIN 2 INCHES OF MY EAR</p>

		<p>GUN WENT OFF GUN SMOKE FELT GUN GRAZE BACK OF MY SHOULDER DIDN'T KNOW GUN - FELT SOMETHING GRAZE BACK OF SHOULDER INSTANT</p>
417	IF	<p>INSTANT HOLDING BROTHER AT THAT TIME - YES KNOW WHAT HAD HAPPENED - UM YEAH I DID; KNEW WHAT HAPPENED KNOW WHAT SHOCK IS NOW; DIDN'T THINK REAL SMOKE COMING OUT OF BARREL SHIED AWAY AND LET GO OF MY BROTHER; HE FELL I TOOK 5 GIANT STEPS BACKWARDS IN FRONT OF TRUCK STAYED A FEW SECONDS SAW MR ANDERSON AT THAT POINT COULD SEE GUN IN HAND IN RIGHT HAND MRS ANDERSON HAD MOVED AROUND JAMES HE WAS STANDING OVER ELI SHE WAS SCREAMING WHAT DID YOU DO I WAS SCREAMING - REMEMBER MR ANDERSON SAID WHAT WAS I SUPPOSED TO DO THAT'S ALL I HEARD</p>
420	IF	<p>I TOOK ABOUT 10 MORE STEPS BACKWARDS, HANDS IN AIR, RUBBING MY FACE TRYING TO ABSORB WHAT HAPPENED JAMES TURNED TOWARDS ME AFTER I HAD TAKEN STEPS BACKWARDS THOUGHT HE WAS GOING TO SQUARE UP ON ME; THEN HE SAW I WAS RETRAITING; I TOOK OFF RUNNING; HE WALKED TO PORCH AND PUT GUN DOWN LEANN STANDING BY MY BROTHER RAN STRAIGHT DOWN ROAD AND TOOK LEFT AND WENT TO FIRST HOUSE WITH LIGHT ON PORCH WENT TO DOOR - I WAS HYSTERICAL AT THAT POINT WAS SCREAMING - DON'T REMEMBER, SAYING THAT JAMES WAS COMING AFTER ME, I DON'T KNOW WHAT WAS GOING THRU MY HEAD FEELING HE WAS COMING AFTER ME SAW A DOG AFTER I KNOCKED ON DOOR; PUSHED MY WAY IN BARRICADED THE DOOR WITH EXTRA DOOR IN HOUSE PUT BETWEEN WALL AND DOORKNOB DIDN'T SEE WHAT KIND OF DOG REMEMBER TALKING TO DISPATCHERS DIDN'T KNOW PEOPLE WHO'S HOUSE WENT INTO HAD NO WEAPONS IN CAR/TRUCK NO WEAPONS INSIDE TRUCK NO WEAPONS ON PERSON ELI HAD POCKET KNIFE DID NOT TAKE OUT POCKET KNIFE DURING CONFRONTATION DID YOU THREATEN ANDERSONS - NO HEAR YOUR BROTHER THREATEN - NO DIDN'T HEAR ALL THINGS SAID -CORRECT POLICE ARRIVED AT TRAILER WHERE I WAS - SEEMED LIKE LONG TIME CAME IN AND PUT ME IN HAND CUFFS; WENT WITH THEM STAYED WITH THEM FOR A LONG TIME BACK OF STATE TROOPER CUSTODY FOR ABOUT 2 HOURS THEN MOVED TO SHERIFF'S CRUISER SAW DETECTIVE BURKE THAT NIGHT HE QUESTIONED ME AS MUCH AS HE COULD STATE OF MIND I WAS COMING AROUND, BECOMING MORE REAL AFTER THE FACT EUPHORIA; MIND SAYING IT DIDN'T HAPPEN SITTING IN CRUISER WITH LIGHTS, BECAME REAL TO ME</p>

		<p>NOW KNOW THEY ARE PADILLA – REMEMBER ON PHONE WITH DISPATCHER THANKSGIVING PARTY – YES, TOLD HIM I COULDN'T BELIEVE WHAT HAPPENED, STARTED OUT TO BE GOOD NIGHT CAN'T BELIEVE THIS HAPPENED, SUCH A GOOD THANKSGIVING EVENTUALLY LEFT BACK OF TROOPER'S CAR AND WENT TO AUBREY'S THEY DROVE ME AT AUBREY'S SHE WAS ON PHONE WITH STATE TROOPER; WAS ABOUT 5 HOURS BEFORE LET ME OUT OF POLICE CAR; SHE WAS STRESSING OUT SPENT NEXT 2 HOURS ON PORCH CRYING GAVE HER CLOTHING – JACKET, BLACK HOODY THERE WAS BLOOD ON IT SHE CLEANED THAT THOUGHT THERE WAS BLOOD IN MY RIGHT EAR I SAW BLOOD, KEPT LOOKING AT IT NO OTHER INJURIES HEARING ISSUES – RINGING WENT IN FOR TESTING CAUSE OF LOSS OF HEARING; ABOUT A WEEK AFTER INCIDENT RIGHT EAR PROBLEM EFFECTS OF GUN BLAST ANYWHERE ELSE – NO THE ONLY INJURY I SUSTAINED WAS EAR RED MARKS ON FACE – BLAST FROM GUN CASING BURNING ON MY NECK DON'T KNOW WHAT CAUSED FROM FELT LIKE BURNING OR RASH OR STINGING RIGHT SIDE NECK AND CHIN I BELIEVE ROLLED PICKUP TRUCK INJURIES ON FACE NOW TALKED TO DETECTIVE BURKE AGAIN – COUPLE DAYS AFTER THE FACT TESTIFIED IN CASE BEFORE ALL THINGS SAID TODAY AND PREVIOUS, AND TO DETECTIVE BURKE ARE ALL TRUE</p>
431	LM	THAT'S ALL
	IR	CROSS EXAMINATION WILL BE LENGTHY
	J	LET'S START
	IF	ASKS FOR A MOMENT
432	IF	I'M READY
	IR	CROSS
	IF	<p>WHEN TALKING WITH TROOPER BENNETT REMEMBER WHAT SAID – YES BROTHER DRIVEN TO TRAVEL AMERICA, GOING TO TAKE CARE OF THIS – DON'T KNOW WHAT MEANT BY THIS TOLD TROOPER BENNETT DRIVEN TWO OF YOU TO TRAVEL AMERICA AND THE TWO OF YOU "TAKE CARE" OF THIS STAYED IN VEHICLE – CORRECT TWO SETS OF KEYS ELI HAD BOTH SETS AFTER WE LEFT TARA'S HOUSE HE TOOK BOTH SETS; HAD FOR REST OF THE NIGHT ROLL DOWN WINDOWS, MASTER PAD ON DRIVER'S SIDE, JUST PUSH BUTTON NEED KEYS AT TIME OF PRELIMINARY HEARING JANUARY 21, 2009: YES I REMEMBER MENTIONED GOING TO THE 219 – YES CONNIE'S LOUNGE – REMEMBER SAYING YOU HAD A COUPLE OF DRINKS – YES SPECIFICALLY TWO – REMEMBER SAYING THAT TESTIMONY NOW MENTION YOU WERE ACTING THE FOOL – GETTING LOUD AND OBNOXIOUS; MESSING AROUND, LEANING INTO PEOPLE BACK TO TRAVEL AMERICA – RIGHT AFTER CONNIE'S AT PRELIM STATED PASSED AUBREY'S HOUSE, PULLED UP TO JAMES' – BROTHER JUMPED OUT, SAID ONLY TAKE A MINUTE, STAY IN THE TRUCK TRANSCRIPT FROM PRELIMINARY HEARING – WHAT, JUSTIN GOT BEAT UP</p>

		<p>LIKE HEARING FOR FIRST TIME - YES SITTING IN TRUCK - RIGHT ELI AND JAMES GOT MORE INVOLVED, HOW TELL WITH WINDOWS UP AND RADIO ON - BODY LANGUAGE LEANN SAID SHE WOULD CALL THE COPS; SHE EITHER HER OR BROTHER CALLING LEANN A BITCH MOVED UP TO APOLOGIZE TO HER, WHAT YOU HEARD - WOULD HAVE TO BE WHAT I STATED TODAY</p>
	IR	READS FROM TRANSCRIPT
	IF	<p>OK TODAY STATED WENT TO MUD ROOM AND KNOCKED ON THE DOOR - YES WHAT POINT ROLLING DOWN WINDOW - FEW MINUTES AFTER JAMES AND BROTHER CAME OUT FROM HOUSE BROTHER APPEARED A LITTLE AGITATED; FRUSTRATED FRUSTRATED MEANS - LOOKING FOR ANSWER OUT OF JAMES; FACT JUSTIN GOT BEAT UP, HOPING JAMES HAD INFORMATION, JAMES NOT SAYING WORD FRUSTRATED - RED FACE, RAISED VOICE; GOT LOUD</p>
441	IR	CONTINUES CROSS
	IF	<p>BURN ON FACE - ON CHIN, MAYBE CHEEK AND NECK SHAPE OF IT - DON'T REMEMBER HEARING CLEARED - HAVEN'T BEEN BACK WENT TO A COUPLE, STILL SOME LOSS IN MY RIGHT EAR; HAVEN'T BEEN BACK, DO'T KNOW IF PERMANENT INTO MUD ROOM OF RESIDENCE AT DOOR; KNOCKED THEN DOOR NOT LATCHED, DOOR MOVED WHEN I KNOCKED JAMES OPENED DOOR 6 INCHES COULD SEE RIGHT SIDE OF HIS BODY DIDN'T LEAN IN AT ALL HEARD HIM TELL ME TO LEAVE; HE SAID I DON'T WANT TO SHAKE YOUR FUCKING HAND AND TOLD US TO GET OUT OF THERE SAW THE WEAPON SHORTLY AFTER HE OPENED DOOR AND I PUT HAND ACROSS THRESHOLD TO SHAKE HAND; HE OPENED DOOR AND SHOWED GUN NEVER SAW JAMES; WHEN I GRABBED MY BROTHER SHE WAS TO RIGHT BACK OF ME YELLING FROM THE DOOR OF THE HOUSE WE HAD TO GET OUT OF THERE WHEN I GRABBED HIM STARTED TO TELL HIM JAMES HAD A GUN AND THAT'S WHEN JAMES PULLED THE TRIGGER WHAT RECALL HAPPENING AFTER GUN FIRE - I TOOK STEPS LETTING GO OF MY BROTHER, WATCHED HIM FALL SAW JAMES WITH PISTOL STANDING BY BROTHER HER SCREAMING WHAT DID YOU DO JAMES SAYING WHAT WAS I SUPPOSED TO DO THEN TOOK OFF RUNNING NOT SURE WHAT SAID AT PRELIMINARY HEARING</p>
	IR	REFRESHING MEMORY BY READING FROM TRANSCRIPT OF PRELIMINARY HEARING
447	IF	<p>YEAH WHILE AT PADILLA'S REMEMBER WHAT TOLD THEM - YES REMEMBER CONCERNED FOR MR ANDERSON'S CHILDREN - KNEW BY ARGUING BETWEEN BROTHER AND JAMES; OVERHEAD SOMETHING ABOUT CHILDREN AFTER THE FACT MY GIRLFRIEND TOLD ME OUR KIDS PLAYED WITH JAMES KIDS ON 911 TAPE - MUST HAVE HEARD FROM ARGUMENT IN FRONT OF HOUSE WHEN IN CAR WAS HOOD UP - ON HOODY - NO, NOT WEARING IT WHEN GOT OUT AT PRELIMINARY HEARING YOU DIDN'T SAY JAMES SAID ANYTHING - I DON'T REMEMBER THOUGHT I SAID</p>
450	LM	REDIRECT

	IF	NOT WATCHING ANDERSONS NOT WATCHING KIDS NOT PLANNED TO ATTACK THEM BROTHER DID NOT SAY WATCHING THEM BROTHER DID NOT TELL HAD KIDS IN HOUSE BROTHER DID NOT SAY FOLLOWING ANDERSON OR FAMILY FIRST TIME TALKED WAS WHEN PASSED AUBREY'S TRAILER - THAT WAS IT
450	LM	NOTHING FURTHER
	IR	NOTHING FURTHER
	J	JURORS DO YOU HAVE QUESTIONS EXCUSE JURY ADMONISHES JURY
		MARK COURT'S 14
	J	READS QUESTION
	BOTH	NO OBJECTION
	J	PLEASE BRING IN THE JURY
453	J	READS COURT'S 14 QUESTION
	IF	HOW DID ELI GET KEYS IF YOU TURNED OFF TRUCK WHEN AT TARA'S HOUSE HE MADE DECISION TO DRIVE, KEYS IN IGNITION HE USED AND ONE TAKEN FROM CONSOLE
	LM	TWO SETS OF KEYS
	IF	YES BOTH SETS HAD CLICKERS
454	LM	NOTHING FURTHER
	BOTH	ASK SUBJECT TO RECALL
	J	MAY STEP DOWN BUT SUBJECT TO RECALL
454	J	EVENING RECESS ADMONISHES JURY
455	J	EXCUSES JURY
455	J	MR JOHNSON LET JURORS CLEAR COURTHOUSE BEFORE ANYONE ELSE EXCUSED COUNSEL, WHERE THINK YOU ARE IN TERMS OF SCHEDULING
	LM	POSSIBLE STATE COULD REST TOMORROW MORE PROBABLE MONDAY MORNING ANTICIPATE CALLING 5 MORE WITNESSES JOSH RUSSELL; STUART; WILLIAM SCHNECK; DANIEL CHRISMAN; HOWARD BURKE
	IR	SORRY NOT IN MY MIND DR GREENDYKE CALL TOMORROW FOR SURE PROSECUTION HAS AGREED TO TAKE HIM OUT OF ORDER BECAUSE OF HIS SCHEDULE HOW LONG TAKE - ABOUT HALF AN HOUR CAN ALSO HAVE ONE OF THE JAILERS OTHER 2 WITNESSES 2 NOT AVAILABLE UNTIL MONDAY LAST WITNESS IF I GET STARTED TOMORROW WON'T REST ON MONDAY
458	J	WE ARE IN RECESS

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SUSAN AYERLE
DIVISION: DISTRICT

CASE NO. CR-2008-7529
DATE: OCT 16 2009 TIME: 8:00 AM
CD: 09-252

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS
CHARGE

JURY TRIAL - DAY 4

INDEX	SPEAKER	PHASE OF CASE
900	J	Calls Case
		Present: DEFENDANT IN CUSTODY WITH ISABELLA ROBERTSON; LOUIS MARSHALL FOR STATE
		MARK STATE'S 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 ALL PHOTOGRAPHS
901	LM	BY STIPULATION EXHIBITS 31 THRU 46 ARE ADMITTED
		CALLS WILLIAM SCHNECK
	CLERK	SWEARS WITNESS
		DIRECT
	WS	WILLIAM S C H N E C K QUALIFICATIONS NOT AWARE OF DATE OF CRIME; WENT TO CRIME SCENE DESCRIBES VISIT ASKED BY DETECTIVE BURKE TO EXAMINE PICKUP F250 LARIAT SUPER DUTY PICKUP; ALLEGEDLY AT CRIME SCENE F250 WAS IN IMPOUND LOT
908	IR	MAY I INQUIRE OUTSIDE PRESENCE OF JURORS
908	J	EXCUSES JURY ADMONISHES JURY
909	IR	SPECIFICALLY RECALL DET BURKE TELLING YOU AND EXPECTATIONS FOR STUDY
	WS	EXAMINE PICKUP TO SEE IF EVIDENCE TRANSFERRED BETWEEN PICKUP AND BIB CARHART OVERALLS MAIN PURPOSE VISITING CRIME SCENE WHAT INFORMATION GIVEN ABOUT CRIME - ESSENTIALLY OVERALL VIEW OF LOCATION; WHERE VEHICLES POSITIONED AT THAT TIME; WHERE DECEASED LOCATED A LOT OF OTHER INFORMATION I DID NOT RECORD ABOUT WHO MAY HAVE SAID WHAT WHO WHEN AND WHERE; NOT GREAT ENOUGH IMPORTANCE TO WRITE IN NOTES
	J	WHERE ARE WE GOING HERE
	IR	WANTED TO CHECK FOR BIAS I HAVE BEEN SATISFIED
	J	ISSUE ADDRESS WITH JURY OUT PURPOSE OF TRIAL TO DETERMINE CRIME HAS BEEN COMMITTED PRESUMPTION AND USE OF LANGUAGE CAN BE SUCH AS TO HAVE SUBTLE EFFECT ON JURORS I AM GOING TO ORDER YOU NOT REFER TO THIS AS THE CRIME SCENE

		SUGGEST YOU USE SCENE OF DEATH OR SCENE WHERE SHOOTING OCCURRED RATHER THAN PRESUMING CRIME COMMITTED I DON'T KNOW WHETHER CRIME WAS OR WAS NOT COMMITTED JURY LIKEWISE PURPOSE OF THIS TRIAL DO NOT WANT TO HAVE POTENTIAL ERROR ENTERING INTO THE RECORD ANYTHING ELSE WE NEED TO TAKE UP OUTSIDE PRESENCE OF JURY
	IR	NOT FROM DEFENSE
912	J	PLEASE BRING IN THE JURY
913	J	THANKS JURY FOR PATIENCE
914	LM	RESUMES DIRECT
	WS	TRUCK INSIDE DURING TESTING; NEVER SAW IT OUTSIDE FIRST PROCEDURE PHOTOGRAPHING VEHICLE AFTER THAT EXAMINED DRIVER'S FRONT WHEEL WELL AREA; LOOKING FOR FIBERS, HAIRS, THINGS THAT NATURE; SOIL ON TIRE OR IN WHEEL WELL NEXT TAPE MEASURING AND TAKING MEASUREMENTS CIRCUMFERENCE OF TIRE
915	LM	ASK PERMISSION TO PUBLISH STATE'S 31 THRU 46 AND USE PROJECTOR
	J	YES
916	WS	EXHIBIT 31 - IMAGE OF FORD F250 FRONT END; TAPE MEASURE SHOWING AREA DID TESTING - RELATING TO EXAMINATION OF CARHARTS EXHIBIT 46 - PHOTOGRAPH OF TIRE; LINT BRUSH ROLLER TAPE NEXT STEP COLLECT SOIL FROM WHEEL WELL; NO PHOTOGRAPH EXHIBIT 32 - CARHART OVERALLS GIVEN CLOTHING MR ANDERSON REPORTEDLY WORE ITEM 14290; RECEIVED THEM IN SEALED CONDITION
	LM	WHAT MEAN
920	WS	ON BACK OF SHEET ITEM NUMBER TO KEEP TRACK OF EVIDENCE PLACED PREVIOUSLY BY SHERIFF'S OFFICE DESCRIBES EXAMINATION OF CARHARTS IN HIS LABORATORY DESCRIBES LABORATORY; TABLES AND MICROSCOPES EXPLAINS HOW KEEP SEPARATE DIFFERENT EVIDENCE EXAMINATION OF CARHART COVERALLS - VIEW OF BACKSIDE LOOKING FOR CONTACT WITH TIRE, RUBBER OF IMPRESSIONS; LOOKED FOR THAT TYPE OF TRANSFER EXPLAINS PRIOR EXAMINATION, PROBABLY BY IDAHO STATE POLICE LAB CUT OUT; DNA SECTION WHAT FOUND AREA 2 ½ X 3 ½ IN SIZE; DARK IN SIZE, PART OF TREAD OF TIRE; EXAMINED MICROSCOPICALLY
925	WS	STATE'S 33 - MAGNIFIED VIEW OF STAIN; NOT TIRE RUBBER, DECAYED PLANT MATERIAL; EXAMINED GARMENT REMOVED MINUTE PIECES OF MATERIAL; CELLULAR STRUCTURE; THOSE CELLS SEEN BEFORE, KNOWN STANDARDS FOR WOOD PLANTS; VISUALLY KNOW IT WHEN SEE IT, CAN TELL DIFFERENCE BETWEEN TREE AND GRASS COULDN'T TELL IN THIS CASE, REALLY DECAYED; NOT FRESH GRASS, NOT ROOTLETS, POSSIBLY WOODY MATERIAL TIRES - RUBBER COMPOUND INGREDIENTS MIXED INTO RUBBER WEARS OUT AND ENDS UP ON STREET; BRUSH UP AGAINST TIRE TRANSFER CARBON AND RUBBER CERTAIN STAIN IS NOT RUBBER NEXT STEP - EXAMINE THE TAPE PULLED OFF TIRE TO SEE FIBERS DID NOT FIND FIBERS CONSISTENT WITH FIBERS LOOKED AT CARHARTS FOR SOIL THAT MIGHT BE ON THEM; DID NOT FIND SOIL CONSISTENT WITH SOIL FROM WHEEL WELL BELIEVE PUT ON FLATBED - WOULD MATTER QUITE A BIT, ON FLATBED NOT IN CONTACT WITH ROAD - AS OPPOSED TO TOWING PREFERRED METHOD PUT ON FLATBED
931	J	WOULD LIKE ANSWER TO QUESTION WHETHER TOWED OR FLATBED - WAS

		GOING TO LOOK AT HIS NOTES
	WS	TOWED BY FLATBED; DELIVERED WITHIN 4 HOURS COLD AND DRY CONDITIONS; RAIN COULD REMOVE OR ADD EVIDENCE DO NOT BELIEVE IT WAS COVERED WHEN PUT ON FLATBED
932	WS	NEXT TEST - CONCLUSION OF TESTS AT THAT PARTICULAR TIME NEXT IN THIS CASE - RETURNED EVIDENCE TO BCSO MET INDIVIDUAL IN SPOKANE - BURT WASHBURN JUNE 23 RD AT 10:14 GAVE HIM SOIL SAMPLE AND CARHART JEANS HE TRANSFERRED TO ME OTHER ITEMS WROTE DOWN MEASUREMENTS TIRE HEIGHT FROM GROUND 31 INCHES STAIN ON BACK OF PANTS - 29.25 AND 32.5 INCHES ASKED DEFENDANT IF COULD MEASURE VARIOUS HEIGHTS SOME OF THOSE MEASUREMENTS CONDUCTED AT BSCO ABLE TO TAKE ALL THOSE MEASUREMENTS - THERE ARE VARIABLE
935	IR	OBJECTION - OUTSIDE PRESENCE OF JURY
936	J	EXCUSES JURY ADMONISHES JURY
936	IR	CONCERN NOT BE ANY INDICATION CLIENT INCARCERATED AT TIME OF TESTING
	J	HOW PROPOSE WE DO THAT
	IR	NOT REFER TO JUMPSUIT, SANDALS OR THINGS ASSOCIATED WITH SOMEONE INCARCERATED
	LM	I DON'T ASSOCIATE SANDALS WITH INCARCERATION
	J	I DON'T EITHER BUT AS SOON AS YOU ASKED TO BE HEARD OUTSIDE PRESENCE OF JURY UNDERSTOOD PLEASE KEEP IT AS NEUTRAL AS POSSIBLE PLEASE BRING IN THE JURY
938	J	ADDRESSES JURY; TECHNICAL ISSUES IN CASES CAN BE EXCUSED MORE OFTEN
939	LM	RESUMES DIRECT
	WS	MEASURED FOOTWEAR BEING WORN AT THE TIME WAS NOT THERE THE NIGHT OF SHOOTING TOLD WHAT MR ANDERSON WAS WEARING THAT NIGHT - SAW PHOTOGRAPHS; WEARING WORK BOOTS VARIABLES TAKEN INTO ACCOUNT ¾ OF AN INCH DIFFERENCE HAVE TO MAKE ASSUMPTIONS EXAMINED ENTIRE SURFACE OF CARHARTS TRANSFER OF EVIDENCE WHAT MIGHT HAVE TRANSFERRED; A LOT OF DYNAMICS DIRT ON WHEEL WELL STATE'S 31 - DEMONSTRATES WHERE SOIL LOCATED IN WHEEL WELL TYPICAL LOCATION TO FIND DIRT ON TRUCK
943	WS	NEXT REPORT - AUGUST 13 TH , NEXT EXAMINATIONS RECEIVED EVIDENCE ON JUNE 23 RD - BASEBALL CAP REPORTEDLY WORN BY DECEASED; REVOLVER; BLACK SYNTHETIC LEATHER JACKET WORN BY DECEASED; OLD NAVY BLACK TIGHTLY WOVEN NYLON TYPE JACKET WORN BY ANOTHER PARTY; SINGLE 44 CALIBER CARTRIDGE EXPERIENCE IN FIREARMS RELATED TO CRIME SCENE RECONSTRUCTION NOT MARKINGS ON BULLETS EXPLAINS CARTRIDGE CASE - BRASS ONE RECEIVED WAS BULLET AND PRIMER IN PLACE REASONS FOR EXAMINATION - SMOKELESS POWDER - GUN POWDER LOOKED AT GUN AND FIRING IT; WENT TO RANGE, SHARPSHOOTERS IN SPOKANE; GUN TAKEN OUT OF SEALED BOX AND FIRED WITH SAME TYPE OF AMMUNITION WHICH I PURCHASED
947	WS	EXHIBIT 34 - .44 CALIBER BLACKHAWK REVOLVER EXPLAINS ROTATING CYLINDER GAP; SMOKELESS POWDER CAN ESCAPE

		FROM CYLINDER GAP WANTED TO SEE HOW CLOSE COULD LAND WITNESS PANELS – EXPLAINS AND DISTANCES GET WITNESS PANELS AT BEN FRANKLIN STORE BOLT OF FABRIC – I SHAKE AND CLEAN; VISUAL EXAMINATION NUMEROUS SHOTS – WITNESS PANELS THEN TAKEN BACK TO LAB
949	WS	STATE'S 35 – MAGNIFIED SHOT OF WITNESS PANEL WITH GUNSHOT RESIDUE; OXIDIZED – BURNT, SOME IMBEDDED AND MELTED INTO MATERIAL; OLD NAVY JACKET SYNTHETIC WHICH MELTS; WILL CHAR COTTON
951	WS	EXAMINE 4 WITNESS PANELS USING STEREO MICROSCOPE PATTERN OF SMOKELESS POWDER GRAINS MELTED AND ADHERED AT 4 INCHES; SOME AT 12 INCHES NEXT STEP PUT WITNESS PANELS AWAY; EXAMINE OLD NAVY JACKET
952	WS	STATE'S 36 – OLD NAVY JACKET NOT WORN BY DECEASED; DON'T REMEMBER NAME OF PERSON WEARING BLACK OLD NAVY JACKET EXPLAINS TAPE LIFTING METHOD TO STATE'S EXHIBIT 37 – TAPE WITH NUMBERS 1 TO 34 ON IT REMOVED ONE AT A TIME ONTO CLEAR SHEET PROTECTORS EXAMINED WITH STEREO MICROSCOPE LOOKING FOR SMOKELESS POWDER STAINS LOOKED AT BEFORE AND AFTER SCRAPED DOWN OVER WHITE PAPER RESULTS – NO SMOKELESS POWER BURNS ON THAT JACKET REASONS WHY MAY OR MAY NOT HAVE BEEN THERE
955	WS	THIS JACKET MAY HAVE BEEN BETWEEN PERSON SHOOTING GUN AND VICTIM; RIGHT HAND OVER SHOULDER DISCHARGED GUN; MAY HAVE BEEN IN CLOSE PROXIMITY – DID NOT FIND ANY DISCUSSIONS WITH DETECTIVE BURKE, JACKET LAUNDERED, IF WASHED WILL REMOVE MOST OF DIRT ON JACKET – ONE HYPOTHESIS ANOTHER HYPOTHESIS, TIGHTLY WOVEN NYLON, DISTANCE FAR ENOUGH SMOKELESS POWDER COULD HAVE TOUCHED JACKET AND FELL OFF ANOTHER POSSIBILITY JACKET NOT INVOLVED IN THIS CASE; NOT IN PROXIMITY OF A GUN HOW CLOSE TO CYLINDER GAP – IN THIS PARTICULAR CASE I WAS GIVEN DECEASED SHOT IN EYE; VERY CLOSE TO ONE ANOTHER; CYLINDER WITHIN A FOOT YOU WOULD THINK – AN ESTIMATE WHEN JACKET WASHED, MELTED PARTICLES WASHING MAY NOT HAVE REMOVED; EACH INSTANCE DIFFERENT
959	LM	REITERATES 3 THEORIES WHY NO SMOKELESS RESIDUE ON HOODY
	WS	CORRECT OTHER THEORY POSITION OF REVOLVER AS PLACED OVER SHOULDER CAN TURN WRIST, CYLINDER CAP CHANGES TOO POSITION TEST NOT DONE HAVE PERFORMED WITH OTHER WEAPONS; DEPENDS ON AMMUNITION AND GUN; DON'T TYPICALLY DO THOSE TESTS MYSELF
1000	LM	WHAT DID NEXT
	WS	EXAMINED BASEBALL CAP POSSIBLY WORN BY VICTIM AT TIME OF HIS DEATH; DO NOT BELIEVE WAS NOT ON HIS HEAD, WAS NEAR HIM EXAMINED CAP STATE'S 42 – INSIDE AND PART OF OUTSIDE OF BASEBALL CAP STAINS IN RIM DETERMINED TO BE SMOKELESS POWDER RESIDUE STATE'S 43 – CLOSE-UP OF BILL OF CAP STATE'S 45 – HIGHLY MAGNIFIED BILL OF CAP; WAS WEARING CAP AT TIME OF SHOT
1004	IR	OBJECTION – CALLS FOR CONCLUSION; MR SCHNECK NOT THERE THAT NIGHT GOING ON INFORMATION PROVIDED

		BASIS OF OPINION PURVIEW OF JURY NOT EXPERT
1005	J	EXCUSES JURY ADMONISHES JURY
	LM	DIDN'T KNOW WHAT HE WAS GOING TO SAY I'M CONFUSED, HE SAID DEFENDANT
	J	NOT ISSUE, I'M HEARING UNDISCLOSED OPINION TESTIMONY THIS WITNESS MAY NOT HAVE AN OPINION THAT WOULD BE BASED UPON EXPERTISE, BASED SOLELY UPON LOGICAL THINKING WHICH IS WHAT JURY CAN REACH ON THEIR OWN HIS OPINION UNNECESSARY
	LM	MAY WE NOW HEAR HIS OPINION NOW JURY GONE
	J	QUESTION YOU ASKED WAS
	IR	FURTHER THINGS HE COULD HAVE DONE TO TELL IF FROM MUZZLE OR GAP REFERS TO WHETHER OR NOT MY CLIENT REACHING OVER SHOULDER PART OF WHAT JURY HAS TO DECIDE WE HAVE HEARD MANY DIFFERENT WAYS THIS HAS OCCURRED LET IT GO BY THE FIRST TIME THAT HAS NOT BEEN DETERMINED; WHAT JURY NEEDS TO DETERMINE POSITION IAN FRIER WAS IN
	J	NOT SURE WHERE GOING LET'S TAKE THOSE STEPS OUTSIDE PRESENCE OF JURY OTHER WAYS TO DETERMINE FROM MUZZLE OR GAP
	WS	SALLY AIKEN TESTIFIED; DETERMINED CLOSE CONTACT SHOT INTO EYE TYPICALLY GUNSHOT SMOKELESS POWDER IF CONTACT SHOT IN THIS CASE NOT POSSIBLE TO TELL THAT CAME FROM MUZZLE OR CYLINDER GAP
	J	PROBLEM WITH THAT
	IR	DR AIKEN SAID ... NEVER REALLY CAME DOWN TO WHICH ONE IT WAS
	J	WITH REGARD TO HIS OPINION
	IR	NO PROBLEM WITH "I DON'T KNOW"
	J	WHAT OTHER TESTS
	WS	EXAMINED WHOLE CAP; HOLE IN BACK OF CAP
	IR	NO PROBLEM
	LM	BLACK LEATHER JACKET
	WS	PARTICLES IN BLACK JACKET MAY HAVE BEEN HOLDING AT ANGLE - COLLAR OF JACKET
	IR	NO PROBLEM
	LM	ANYTHING ELSE
1011	J	PLEASE BRING IN THE JURY
	J	THANKS JURY FOR PATIENCE ITEMS THAT MAY COME UP
1011	LM	ABLE TO DETERMINE SMOKELESS PARTICLES FOUND CAME FROM CYLINDER GAP OR MUZZLE
	WS	NO FURTHER TESTS DONE ON CAP EXAMINED REMAINDER OF BASEBALL CAP STATE'S 44 - BACK OF CAP - EXITING HOLE, FRAYED MATERIAL PROJECTILE EXITED; DID NOT DETERMINE IF PROJECTILE DID EXIT CONSISTENT WITH THE HYPOTHESIS THAT THE HAT WORN AT TIME NO OTHER TESTS ON HAT BLACK LEATHER JACKET, REPORTEDLY WORN BY VICTIM STATE'S 38 - BLACK LEATHER JACKET SMOKELESS ON COLLAR STATE'S 39 - SNAP ON COLLAR - LEFT STATE'S 41 - CLOSE-UP OF SMOKELESS POWDER GRAIN IN COLLAR STATE'S 38 - WHERE MAGNIFICATION - LEFT COLLAR DID NOT LOOK FOR OTHER SUBSTANCES ON THAT JACKET SEARCHED THE COLLAR AND FRONT SURFACES OF JACKET; NOT THE BACK

		OF THE JACKET SMOKELESS POWDER GRAINS
1017	WS	OPINION WHERE WEAPON WAS AT TIME SHOT FIRED - RATHER CLOSE TO JACKET; OPINION BASED ON RELATIVE TO WEAPON
1017	IR	OBJECTION CALLS FOR CONCLUSION THAT DOESN'T TAKE INTO ACCOUNT VARIABLES OUTSIDE THE SCOPE OF WHAT HE'S TESTIFYING TO
1017	J	EXCUSES JURY; MAY TAKE MORNING BREAK ADMONISHES JURY
1018	J	MS ROBERTSON
	IR	CONFUSED BY THE QUESTION
	J	UNDISCLOSED OPINION SOUGHT TO BE OFFERED AT THIS TIME?
	IR	I'M CHECKING
	J	MR MARSHALL YOU'RE SEEKING TO ILLICIT OPINION THIS WITNESS HAS CAPABILITY OF DETERMINING HOW WEAPON HELD FROM TWO GRAINS OF SMOKELESS POWDER
	LM	RESPONDS; ALSO USES AUTOPSY REPORT WITNESS PANELS TO DETERMINE HOW PARTICULATES
	J	HIS OPINION GOING TO BE WHAT?
	LM	THAT THE FIREARM WAS TURNED, COCKED TOWARDS THE SIZE
1020	WS	POSSIBLY, LIKELY, BUT NOT NECESSARILY SMOKELESS POWDER UNDER CAP AND MELTED ON COLLAR ANGLE OTHER THAN UP AND DONE
	LM	DR AIKEN'S REPORT AND TESTIMONY OF DR AIKEN ANGLE OF BULLET
	IR	MR SCHNECK'S CONCLUSIONS USING DR AIKEN'S CONCLUSIONS NOT DISCLOSED AS SUCH TO DEFENSE THESE
	J	IS THAT CORRECT MR MARSHALL? NOT DISCLOSED
	WS	DISCLOSED 2 ND PARAGRAPH OF CONCLUSIONS OF 2 ND REPORT READS FROM REPORT
	IR	MY POINT SPECIFICALLY, DR AIKEN'S REPORT NOT MENTIONED NO ISSUE WITH RIGHT OR LEFT, STRAIGHT UP OR DOWN OUTSIDE WHAT SAID HERE
1023	J	MAY I SEE YOUR REPORT MS ROBERTSON YOU GOT COPY OF REPORT
	IR	YES, NOT CHALLENGING THAT STATEMENT -
1024	J	YOUR COMPLAINT IS BASIS FOR THIS OPINION NOT DISCLOSED
	IR	NOT IN CONJUNCTION WITH DR AIKEN, NO
	J	WHAT I'M TRYING TO GET AT
	IR	YES
	J	SENTENCE THAT STATES FROM THE REPORT - READS FROM REPORT NOW TESTIFYING OPINION DR AIKEN'S REPORT TOGETHER WITH LOCATION OF SMOKELESS POWDER
	IR	YES
	J	MR MARSHALL
	LM	I'M NOT SURE I COMPLETELY UNDERSTAND HE HAS TO SAY WHAT HIS CONCLUSIONS ARE - IN HIS REPORT DOES NOT HAVE TO LIST EVERY FACTOR USED TO MAKE THAT DETERMINATION; OTHER REPORTS USED
	J	RELATES TO EXPERT WITNESSES; DO HAVE TO LIST EVERY SINGLE FACTOR USED TO ARRIVE AT THEIR CONCLUSION WAS DISCOVERY REQUESTED THAT
	IR	DID NOT SPECIFICALLY ASKED THAT QUESTION; ACCUSTOMED TO HAVING IT LISTED ON REPORT; WHY WANTED TO KNOW INFORMATION FROM POLICE
	J	WHAT ASKED IN DISCOVERY
	IR	DIDN'T ASK FOR IN PARTICULAR DO NOT HAVE DISCOVERY FORM WITH ME
	LM	DO NOT HAVE WOULD ALSO LIKE TO SAY EXPERTS ARE ALLOWED TO SIT IN COURTROOM

		AND LISTEN TO TESTIMONY; THAT INFORMATION CAN'T BE PLACED IN REPORT
	J	I UNDERSTAND; ISSUE WHETHER OR NOT PREJUDICIAL TO DEFENSE AT THIS POINT MS ROBERTSON SAYING IT IS AT THIS POINT IS IT PREJUDICIAL TO DEFENSE AT THIS POINT BECAUSE OF A LACK OF ASKING OR PREJUDICIAL FOR SOME OTHER REASON GOING TO TAKE A BREAK; FIND A DISCOVERY MAY BE ISSUE DETERMINATIVE RESUME AT 10:45
1028		OFF
1045	J	MS ROBERTSON DO YOU HAVE DISCOVERY
	IR	YES, WOULD YOU LIKE TO SEE
	J	MAKE A COPY PLEASE
1048	IR	READS FROM RULES OF EVIDENCE
	LM	ASK COURT JUST FOLLOW 705 RULE OF EVIDENCE
1049	J	MS ROBERTSON, NOW I'VE REVIEWED RULE 705 AND PARAGRAPH 8 OF THE DISCOVERY, YOUR ARGUMENT THAT YOU ASKED BY PARAGRAPH 8 OBJECTION MADE MR MARSHALL
	LM	NO, MY ARGUMENT FACTS DISCLOSED BY AUTOPSY
	J	DISAGREE - UNDERLYING FACTS OR DATA WHAT I'M HEARING IS THIS WITNESS'S CONCLUSION IS THAT POSSIBLE THAT THE GUN MAY HAVE BEEN TILTED OR ROTATED
	WS	YES
	J	BASIS OF THAT IS YOUR TESTS AS WELL AS TESTIMONY/REPORT OF DR AIKEN
	WS	MY TESTS AND DISCUSSION WITH DETECTIVE BURKE AND PROXIMITY OF GUN TO EYE
1051	J	NOW MY UNDERSTANDING PRIOR TO THE BREAK YOUR OPINION BASED UPON WHAT DR AIKEN TESTIFIED TO
	WS	DID NOT SAY THAT ATTORNEY SAID THAT
	LM	MAY I CLARIFY MR SCHNECK TALKED TO DETECTIVE BURKE WHO HAD REPORTS MR SCHNECK RECEIVED INFORMATION FROM DETECTIVE BURKE WHO DREW CONCLUSION FROM DR AIKEN
	IR	GOES TO FIRST TIME I ASKED JURY BE EXCUSED WHEN I ASKED WHAT DETECTIVE BURKE HAD TOLD MR SCHNECK TO SEE IF ANY BIAS AT THAT TIME INFORMATION I RECEIVED DID NOT INDICATE THIS WAS NOT OF INFORMATION PROVIDED BY DETECTIVE BURKE NOW ON DIFFERENT ISSUE HERE
1053	J	ALRIGHT NOT GOING TO ALLOW THIS OPINION TO BE GIVEN CONCLUSION RULE 403 STATES ... READS IN THIS CASE APPEARS TO ME THAT EXPERT WITNESS MR SCHNECK GOING TO STATE WHAT JURORS CAN CONCLUDE THEMSELVES - GUN MIGHT HAVE BEEN ROTATED; NOT SAYING MORE PROBABLE OR NOT OR THAT IS WHAT OCCURRED HE IS SAYING IS POSSIBILITY LEADS TO CONSIDERATION OF UNDUE DELAY, POTENTIAL WASTE OF TIME RECOGNIZE ADDRESSED TO SOUND DISCRETION OF TRIAL COURT RULE 705 - SUBSECTION 8 OF DEFENDANT'S REQUEST FOR DISCOVERY, THAT IS A CLOSER ISSUE HAD IT BEEN SOLELY BASED UPON THOSE ISSUES MY DECISION WOULD BE THE SAME, EXPERT OPINION GOING TO BE PROVIDED REQUEST MADE FOR UNDERLYING FACTS OR DATA THAT FORMED BASIS NOT HEARING THAT INFORMATION WAS DISCLOSED AND BY THAT I MEAN SPECIFICALLY THE FACT THAT THE FIREARM WAS IN CLOSE CONTACT OR

		PROXIMITY OF THE FACE OF THE DECEASED
	IR	NOTHING FURTHER
	LM	ASK IF FOUND PARTICULATES ON ANY OTHER PLACE
1056	J	PLEASE BRING IN THE JURY
1057	J	THANKS JURY FOR PATIENCE MR MARSHALL
1058	LM	RESUMES DIRECT
	WS	PARTICULATES ON LEFT SIDE OF JACKET AND RIM OF HAT, OTHER FOUND – NO WHAT PORTION OF HAT/BRIM FOUND – PARTICULATES ON – ON ONE SIDE; MORE UNDERSIDE OF CAP, POSITION OF LEFT EYE
1058	LM	NOTHING FURTHER
	IR	CROSS
	WS	IF CAP WORN WITH BILL IN FRONT TRACE EVIDENCE DETERIORATES – OFTEN IT DOES, DEPENDING ON TYPE IT IS FIBERS AND HAIRS – DEPENDING ON WHAT TYPE OF FIBERS, COTTON SOONER, SYNTHETIC LESS; HAIRS CAN BE IN SOIL HUNDREDS OF YEARS MATERIAL OF THE OUTER SHELL OF CARHARTS WAS – THIS PARTICULAR CASE NOTES DO NOT REVEAL; LITTLE TAG GONE FROM INSIDE GARMENT AND I DID NOT EXAMINE; PROBABLY COTTON COTTON BLEND IDEAL TIME FRAME TO EXAMINE PARTICULATES/TRACE EVIDENCE FROM AN EVENT – IDEAL TIME INSTANTANEOUS NORMALLY A NORMAL TIME FRAME OR USED TO ALL KINDS OF TIME FRAMES – RANGING FROM HOURS TO YEARS
1102	WS	OUT AT PLACE OF THE EVENT IN WHAT MONTH – APRIL 6 MONTHS AFTER – NOT POSITIVE OF DATE IT OCCURRED NOVEMBER 28 TH 2008 – ABOUT 6 MONTHS CHANGES AT SCENE 6 MONTHS LATER – NOT AT SCENE DURING INCIDENT, DURING 6 MONTHS OF TIME RAIN, SNOW, SLEET, HAIL, THUNDER, LIGHTENING, WIND, RAIN, NOT SURE COULDN'T TELL; OTHER THAN THE STRUCTURES WERE STILL THERE; WOODS STILL THERE; DRIVEWAY STILL THERE; MAJOR PERMANENT STRUCTURES STILL IN EXISTENCE AWARE OF COLLECTION OF TRACE EVIDENCE DONE THAT NIGHT – NOT AWARE OF SPECIFIC TRACE EVIDENCE POSSIBLE FOR THAT TO BE TAKEN THAT NIGHT – WELL, NOT SURE WHEN CLOTHING TAKEN; CAR TAKEN RATHER QUICKLY, 4 HOUR TIME RANGE NOT TRACE EVIDENCE EXAMINE BED OF FLATBED THAT BROUGHT VEHICLE – NO POSSIBLE EVIDENCE ON FLATBED THAT MAY HAVE WOUND UP ON TIRES – NOT SURE UNDERSTAND – TRANSFER TO TIRE FROM FLATBED; TREAD OF TIRE; I WAS LOOKING AT SIDEWALL AND SIDE OF TIRES
1105	IR	CONTINUES CROSS
	WS	ALSO MENTIONED THAT THE CARHARTS HAD SOME PATCHES OR PLACES WHERE CUT OUT – POLICE EVIDENCE, YES WHERE SAY CUT OUTS TAKEN – BACK OF CARHARTS AND AT WHAT FACILITY – NOT SURE; KNOW EXAMINATION AT IDAHO STATE LAB IN MERIDIAN BEFORE MY EXAMINATION NOT AWARE OF HOW PROCESSED BUT AWARE OF STANDARDS AWARE OF HOW CARHARTS WERE PRESERVED FROM TIME TAKEN INTO CUSTODY UNTIL REACHED YOU – THERE WAS ADEQUATE CHAIN OF CUSTODY ON OUTER SURFACE OF BAG LABEL TO AND FROM KNOW NAMES OF PEOPLE AND INSTITUTIONS – BY LOOKING AT BAG CARE GIVEN TO THEM ON BAG ALSO – NO; NOT WRITTEN ON BAG, PEOPLE, TIME PLACES NOT HOW PROCESSED VEHICLE – SEE TRUCK IN BONNER COUNTY IMPOUND LOT; INDOORS OTHER VEHICLES IN BUILDING

		DON'T RECALL NUMBER; LARGE BUILDING DON'T RECALL IF HAD PADLOCKED, SURE IT WAS A LOCKED FACILITY WAS TRUCK IN ROOM BY ITSELF - NO CLOSE TO OTHER VEHICLES - NOT SURE WHAT CLOSE MEANS; MAY HAVE BEEN OTHER VEHICLES PROBABLY 30, 40, 50 FEET AWAY, MAYBE CLOSER, DIDN'T MAKE DIFFERENCE IN MY INVESTIGATION HAVE NO KNOWLEDGE OF WHAT ELSE OCCURRED IN THAT BUILDING PRIOR TO MY EXAMINATION
1109	IR	NOTHING FURTHER
	LM	RE DIRECT
	WS	DAY ARRIVED IN SANDPOINT WAS WITH DETECTIVE BURKE REMEMBER COMING INTO BUILDING THERE WERE ONE OR TWO OTHER PEOPLE THAT WOULD COME IN; DON'T RECALL THEIR NAMES; WAS THERE WITH DETECTIVE BURKE THAT DAY WOULD NAMES BE MEANINGFUL - NO DON'T WORK FOR BCSO DON'T KNOW OTHER BCSO, KNOW EVIDENCE TECHNICIAN AROUND WHITE TRUCK ANYTHING; NOT LIKE A PARKING LOT WITH VEHICLES PARKED NEXT TO EACH OTHER SPECIFIC SPACES HAVE ROOM
1111	IR	OBJECTION - CONCLUSION
	LM	HE'S AN EXPERT IN FORENSIC SCIENCE
	J	SUSTAIN OBJECTION DISREGARD LAST STATEMENT
	LM	RESUMES RE-DIRECT
	WS	HOW FAR AWAY; ESTIMATE HOW FAR AWAY NEXT VEHICLE WAS SO FAR AWAY DON'T RECALL; IN DISTANCE MAY HAVE BEEN A BOAT
1112	LM	NOTHING FURTHER
	IR	NOTHING FURTHER
	J	JURORS DO YOU HAVE QUESTIONS
1113	J	EXCUSES JURY ADMONISHES JURY
		MARK COURT'S 15, 16, 17, 18
	J	EXPLAINS JURORS SUBMIT QUESTIONS COURT'S 15
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	LM	NO OBJECTION
	IR	OBJECTION OUTSIDE AREA OF EXPERTISE
	LM	QUESTION IN GOOD WORKING ORDER
	IR	I WOULDN'T KNOW IF SOMETHING IN GOOD WORKING ORDER REGARDING A WEAPON
	J	OVERRULED I WILL ALLOW IT; WHAT JUROR DID ASK
1115	J	NEXT QUESTION
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	BOTH	NO OBJECTION
1116	J	PLEASE BRING IN THE JURY
1117	J	FIRST QUESTION
	WS	PUT ON FLATBED, TIRE ROTATE - SPRAY PAINT TIRE BEFORE LOADING DID NOT TAPE LIFT ENTIRE CIRCUMFERENCE

	J	QUESTION
	WS	YES, TIRE ROTATED
	J	TOP OF TIRE
	WS	ORANGE PAINT FOR LOCATION
	J	GUN IN GOOD WORKING ORDER AS FAR AS TESTS WENT
	WS	YES
	J	PICKUP DIRTY ENOUGH
	WS	WHITE SURFACES OF PICKUP NOT VERY DIRTY TIRE ALWAYS POSSIBILITY OF TRANSFER, IT WAS DIRTY ENOUGH
	J	DID YOU LOOK FOR ROAD GRIME ON CARHARTS
	WS	CARHARTS WERE VERY DIRTY; LOOKED FOR ...NAMES ITEMS COULD SPEND YEARS LOOKING AT EVERY MICROSCOPIC PARTICLE
	J	ROAD GRIME ON WHITE PAINT
	WS	YES I DID
	J	HOW MANY INCHES LEFT FRONT TIRE INSET FROM OUTSIDE LEFT TIRE FRAME
	WS	DID NOT DETERMINE; NOT OVERSIZED TIRE THAT EXTENDED BEYOND WHEEL WELL
	LM	RE-DIRECT
	WS	ROAD GRIME ON TRUCK - JUST WHEEL WELLS, NOT ON WHITE SURFACES ROAD GRIME DEFINED
1121	LM	NOTHING FURTHER
	IR	NOTHING FURTHER
	J	EXCUSE WITNESS
	BOTH	NO OBJECTION
	J	EXCUSES WITNESS
	LM	CALL STUART JACOBSEN
	CLERK	SWEARS WITNESS
	LM	DIRECT
	SJ	STUART JACOBSEN JACOBSON FORENSIC SCIENTIST FOR ISP IN CD'A CRIME LABORATORY FIREARMS TOOL MARK EXAMINER; OTHER DUTIES TRAINING PROGRAM - COMPLETED WORK WITH/FOR DWIGHT VAN HORN, CONTRACT EMPLOYEE WITH STATE POLICE MY JOB TO ANALYZE EVIDENCE SUBMITTED TO LABORATORY AND PROVIDE RESULTS HOW OFTEN DEAL WITH FIREARMS - 30 TO 50 CASES; ALL HANDLED AT CD'A LAB TESTS WITH FIREARMS; EVIDENCE - CHARACTERIZATIONS OF FIREARM DETERMINATIONS, FIRE TO SEE IF FUNCTION PROPERLY BALLISTICS INCORRECT TERM, FIREARM COMPARISON BALLISTICS IS PROJECTILE IN FLIGHT INSTRUMENTS USED TO DO TEST - COMPARISON MICROSCOPES RECEIVE INTO LAB - RECEIVED BY ONE OF TWO EVIDENCE TECHNICIANS EITHER DELIVERED OR SEND THRU MAIL PROVISIONS TO TAKE TO SEND THRU MAIL - SEALED CONDITION; REQUIRE UNLOADED WHEN WE RECEIVE, WE CHECK, THEN RESEAL INTO EVIDENCE VAULT TRACKING - EVIDENCE RECEIVED DETERMINE SEALED CONDITION OR NOT; REQUIRE SEALED NOT TO CROSS CONTAMINATE; EACH RECEIVES A NUMBER, MULTIPLE PIECES RECEIVE SUB NUMBER EXAMINED FIREARMS
	LM	STATE'S 24
	SJ	GUN LOOKED AT AND EXAMINED RUGER NEW MODEL SUPER BLACKHAWK, 44 MAGNUM SINGLE ACTION

		<p>REVOLVER – MODEL OF PISTOL TELL BY EXTRACTION ROD; TAKE OUT CYLINDER</p> <p>SINGLE ACTION FIRE ARM MEANS TO FIRE WEAPON YOU HAVE TO MANUALLY COCK THE TRIGGER BY PULLING IT BACK</p> <p>DEMONSTRATES COCKING ON STATE'S 24</p> <p>IF DO NOT PULL HAMMER BACK AND PULL TRIGGER GUN WILL NOT FIRE</p> <p>DOUBLE ACTION REVOLVER, CAN PULL TRIGGER AND WILL COCK HAMMER BACK AND FIRE IN ONE ACTION</p> <p>REVOLVER – CYLINDER REVOLVES; COCK HAMMER AND CYLINDER ROTATES ONE ROUND TO NEXT CARTRIDGE, CONTAINS BULLETS IF LIVE</p> <p>THIS WEAPON HOLDS 6 CARTRIDGES</p> <p>CARTRIDGE REMAINS IN CYLINDER AFTER BEING FIRED</p> <p>DIFFERENCE BETWEEN LIVE AND EXPENDED ROUND</p> <p>NOT SURE HOW WELL SEE BACK OF FIREARM, FROM FRONT CAN SEE THRU IT</p> <p>WOULDN'T BE ABLE TO SEE ROUND IN CHAMBER – BLOCKED BY HAMMER UNLESS SEE DIMPLE LEFT BY FIRING PIN</p> <p>TAKE CARTRIDGE OUT AND LOOK AT IT, FROM BACK – NO BULLET IN FRONT</p> <p>FIRING PIN IMPRESSION IN PRIMER</p> <p>MEASUREMENTS HOW HEAVY – NO, NOT NORMAL MEASUREMENTS</p> <p>CHECK OVERALL LENGTH, BARREL LENGTH,</p> <p>TO CHARACTERIZE TYPE OF FIREARM</p> <p>GENERAL TERMS THIS IS HANDGUN</p> <p>SHOTGUN OR RIFLE IS SHOULDER WEAPON</p> <p>HANDGUN HELD IN HAND</p> <p>MENTIONED TRIGGER PULL – MEANS HOW MUCH PRESSURE REQUIRED TO RELEASE THE ? AND LET HAMMER FALL</p> <p>MAKE DETERMINATION BY USING DEAD WEIGHTS, A LONG ROD WITH HOOK ON ONE END AND FACEPLATE ON BOTTOM</p> <p>HOOK ATTACHED TO TRIGGER AND PLACE WEIGHTS ON FACE PLATES</p> <p>COCK WEAPON AND SLOWLY LIFT UP ADD WEIGHTS UNTIL IT FIRES</p> <p>GO BACK AND FORTH UNTIL GET WHERE IT DOES AND WHERE IT DOESN'T FIRE</p> <p>PULLING TRIGGER BUT NO CARTRIDGES IN CYLINDER</p> <p>WOULDN'T CHANGE TRIGGER PULL IF THERE WERE</p> <p>POUNDAGE RATE RANGES IN TRIGGER PULLS – THERE ARE</p> <p>DETERMINE THE FACTORY RANGE – TALK TO FACTORY</p> <p>I HAVE</p>
1135	IR	OBJECTION – OUTSIDE HEARING OF JURY
	J	EXCUSES JURY
		ADMONISHES JURY
1135	J	YOUR OBJECTION
	IR	NOT INCLUDED IN REPORT I RECEIVED WITH STUART JACOBSON'S
		TALKED TO EXPERT OF MY OWN
		UNDISCOVERED TO ME
	J	NOT BEING ASKED TO GIVE THAT INFORMATION AT THIS POINT
	LM	WHAT IS THAT INFORMATION
	J	HE DODGED THE QUESTION AND SAID I HAVE IN THE PAST
		DIDN'T RESPOND TO THE QUESTION AS RELATES TO THIS CASE
		IS THAT WHAT YOU'RE ASKING
	IR	THIS INFORMATION HAS NOT BEEN DISCOVERED TO ME THAT HE MADE
		THAT CONTACT
	J	TRYING TO MOVE ALONG
		ISSUE WITH WHAT TRIGGER PULL SPECIFICATIONS ARE
	IR	DON'T KNOW WHAT HE'S GOING TO SAY
	J	HE'S NOT GOING TO SAY ANYTHING
		IT'S HEARSAY AND NOT DISCLOSED
	LM	STANDARD REPORT LAB PRODUCES; SEE THIS PRODUCED IN DRUG CASES;

		HAVE TO BE CHANGED, CREATE A LOT OF EXTRA WORK ON FORENSIC SCIENTISTS HAVEN'T SEEN WHERE SCIENTISTS CAN'T TESTIFY AS TO THEIR REPORTS
	J	NOT SAYING HE CAN'T TESTIFY AS TO WHAT'S IN HIS REPORT
	LM	WANT HIM TO TESTIFY AS TO WHAT TRIGGER PULL IS AND IF IN STANDARD RANGE
	IR	WANT TO HEAR ANSWERS
	J	ISSUE IS
	IR	NOT DISCOVERED TO ME
	J	OBJECTION AS TO THIS WITNESSES OPINION BEING EXPRESSED
	IR	YES, SINCE I DON'T KNOW HIS OPINION
	J	HAVE ASKED MR MARSHALL WHAT HE'S GOING TO ASK
	IR	DON'T HAVE IF I MAY VOIR DIRE WITNESS
	J	WHAT DO YOU HAVE OBJECTION TO
	IR	NOT DISCOVERED; DON'T KNOW WHAT HE'S GOING TO SAY WHETHER OR NOT WITHIN SPECIFICATIONS AS TOLD BY FACTORY
	J	YOU MAY VOIR DIRE
1140	IR	VOIR DIRE
	SJ	EMAILED RUGER AND ASKED WHAT IT WAS 3.5 TO 5 POUNDS BROUGHT EMAIL WITH ME
	IR	I HAVE NO OBJECTION
1140	J	PLEASE BRING IN JURY
1141	LM	RESUMES DIRECT
	SJ	TECHNIQUE OF DEAD WEIGHTS - DID ON THIS PARTICULAR GUN TRIGGER PULL WEIGHT, NOT FIRE WITH TRIGGER 3.25 BUT WOULD WITH TRIGGER PULL 3.5 USUALLY DO 2 OR 3 TIMES SOME DO, MOST DON'T CHANGE THIS ONE DON'T RECALL OFF HAND STANDARD TRIGGER PULL - CONTACTED FACTORY FOR SPECIFICATIONS; RANGE 3.5 TO 5 POUNDS BESIDES DEAD WEIGHT TEST, OTHER TESTS - TEST FIRED 3 TIMES COMPARED THOSE TEST FIRST TO BULLET JACKET RECEIVED AS EVIDENCE HOW TEST FIRE - FIRE INTO WATER TANK USUALLY; RECOVER THE BULLET COMPARISON MICROSCOPE WATER TANK IN LABORATORY LABORATORY MOVED IN LAST 6 MONTHS; STILL IN CD'A TEST FIRED THIS GUN 3 TIMES; FUNCTIONED CORRECTLY
1144	SJ	TOOK THE BULLETS RECOVERED FROM WATER TANK, FIRST THING YOU DO MAKING TEST FIRES, LOOK AT TEST FIRES, COMPARED TO EACH OTHER; MARKS ON BULLET SEE IF REPRODUCIBLE; COMPARE KNOWN WITH UNKNOWN TO DETERMINE IF FIRED FROM SAME FIREARM BULLET JACKET I RECEIVED WAS FIRED FROM THIS FIREARM LEAD CORE ALSO SUBMITTED BUT LEAD CORE DOES NOT HAVE MARKING - INSIDE OF BULLET COMPARISONS TO MATCH CAN NOT USE LEAD CORE; MARKINGS LOOK AT ARE FROM BARREL ITSELF, TRANSFERRED TO JACKET WHILE TRAVELING DOWN BARREL; NO MARKINGS ON LEAD CORE TO COMPARE BACK TO FIREARM
1145	LM	NOTHING FURTHER
	IR	NO QUESTIONS
	J	JURORS DO YOU HAVE QUESTIONS NOT SEEING ANYONE WRITING MAY THIS WITNESS BE EXCUSED
	BOTH	NO OBJECTION
	J	EXCUSES WITNESS

1146	LM	CALL JOSHUA RUSSELL
	CLERK	SWEARS WITNESS
	LM	DIRECT
1147	JR	<p> JOSHUA RUSSELL DON'T KNOW EACH OTHER KNOW JAMES ANDERSON – IDENTIFIES DEFENDANT HOW KNOW – FRIEND OF MINE, LIVED IN SAME TRAILER PARK; TRAVEL AMERICA; LIVED IN SPACE 46 LIVED THERE MAYBE A YEAR; BEGINNING 2008 TO JANUARY 2009 LIVE NOW ROCHESTER WA; WESTERN WASHINGTON KNOW LEEANN ANDERSON KNOW PATRICK ZIARNICK KNOW BILLY COEHNSBERG – ROOMMATE AT TRAVEL AMERICA KOLNSBERG DID NOT KNOW ELI HOLT AT THAT TIME KNEW IAN FRIER, DIDN'T KNOW BEFORE; MET HIM IN BONNER COUNTY JAIL AT SOME POINT HALF WAY THRU 6 MONTHS I WAS SERVING IN JAIL STILL FRIENDS WITH MR ANDERSON DON'T KNOW JUSTIN HINES ACCOMPANIED MR ANDERSON AND MR ZIARNICK NOT TO UNICEP I WAS IN CAR ACROSS PARKING LOT MR KOLNSBERG IN MY CAR DROVE MR ANDERSON THERE DID NOT SEE WHAT TOOK PLACE DARK AND PARKED IN DIFFERENT PARKING LOT QUITE A WAYS AWAY MR ZIARNICK IN MY BACK SEAT EVERYONE CAME WITH ME GREEN 1999 TOYOTA FORERUNNER LIMITED MR ZIARNICK GOT OUT OF CAR MR KOLNSBERG DID NOT GET OUT OF CAR ANDERSON AND ZIARNICK GONE MATTER OF MINUTES RETURNED TO VEHICLE THEN WENT BACK TO MY HOUSE I BELIEVE TRAVEL AMERICA SPOT 46 WENT TO ANDERSONS EVERY NOW AND THEN WENT ON THANKSGIVING MORNING OF THANKSGIVING; WENT HUNTING, JAMES WENT HUNTING WE ACCOMPANIED HIM; STARTED OUT FROM JAMES' HOUSE WENT OVER THERE WITH PATRICK; EARLY IN THE MORNING SOMEWHERE DON'T KNOW AREA THAT WELL, IN THE HILLS I GUESS AFTER GOT BACK, SAT DOWN, WATCHED SOME TV; LATER THAT EVENING HAD DINNER AFTER DINNER, I WAS DRINKING QUITE HEAVILY, AT JAMES' HOUSE IN OUT SHED; DESCRIBES REGULAR MADE OUT OF WOOD SHED HAD ELECTRICITY; LIGHT ON; NO HEAT WEARING COAT; DRINKING CAN'T REMEMBER MR ZIARNICK NOT THERE – HE LEFT SOMETIME BEFORE IT GOT DARK MR ANDERSON IN AND OUT OF HOUSE WITH ME IN SHOP GO BACK INTO TRAILER GET SOMETHING TO EAT; TALK TO HIS WIFE MR ANDERSON MIGHT HAVE HAD BEER OR TWO, NOT DRINKING LIKE I – I WAS DRINKING HEAVILY; HARD ALCOHOL I WAS DRINKING MY BOTTLE I BELIEVE HAD LAYING AROUND; HAD ONE ON ME BACK AT MY HOUSE IN SHOP DIDN'T LEAVE AND GO BACK TO TRAILER; BELIEVE BROUGHT WITH ME; PRETTY SURE, ALMOST ALWAYS HAD BOTTLE WITH ME HAD IT THAT MORNING WHEN CAME TO HOUSE MR ZIARNICK PICKED ME UP FROM TRAILER STAYED IN SHOP UNTIL WELL AFTER DARK </p>

		AT THAT POINT I WAS DRINKING HEAVILY AS I HAD BEEN FOR WEEKS; PASSED OUT SOMETIME AFTER DARK JAMES MIGHT HAVE BROUGHT ME INSIDE I DON'T REMEMBER NEXT THING I REMEMBER IS A COP POKING ME WITH FLASHLIGHT; JAMES' WIFE SCREAMING; COP TOLD ME TO SIT THERE DIDN'T SEE OR HEAR ANYTHING THAT NIGHT PASSED OUT FROM TOO MUCH ALCOHOL
1157	LM	NOTHING FURTHER
	IR	NO QUESTIONS
	J	JURORS QUESTIONS
		MARK COURT'S 19, 20, 21, 22
	J	EXCUSES JURY ADMONISHES JURY
	J	FIRST QUESTION
	LM	NO OBJECTION
	IR	OBJECTION THAT DAY OR EVER DO OBJECT TO EVER
	LM	NOTHING
	J	IF I ADD THANKSGIVING 2008
	BOTH	NO OBJECTION
	J	SEE JAMES
	BOTH	NO OBJECTION
	IR	ADD THANKSGIVING 2008
	J	NEXT QUESTION
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	LM	NO OBJECTION
	IR	RELEVANCE OBJECTION
	J	HE DID TESTIFY DRINKING A LOT I'LL ALLOW IT
	J	NEXT QUESTION
	BOTH	NO OBJECTION
1201	J	PLEASE BRING IN THE JURY
1202	J	DID LEE ANN DRINK JAMES DRINK
	JR	NO SAW JAMES DRINK A BEER EARLIER IN THE NIGHT PATRICK ZIARNICK SPEND NIGHT AT YOUR HOUSE NIGHT BEFORE, BELIEVE SO BUT NOT ENTIRELY SURE DRINKING A LOT FOR ABOUT ONE WEEK - MORE LIKE A MONTH INTOXICATED THAT MORNING - HUNG OVER
	J	FURTHER QUESTIONS
	LM	TIME LIVED IN TOWN
	JR	YES; NORTH RUTH AT TIME THIS HAPPENED NIGHT BEFORE AT HOUSE IN TOWN ZIARNICK PROBABLY THERE; NOT SURE HUNG OVER THANKSGIVING MORNING; DRANK NIGHT BEFORE DRANK IN TOWN NIGHT BEFORE
1204	LM	NOTHING FURTHER
	IR	NO QUESTIONS
	BOTH	NO OBJECTION TO WITNESS BEING EXCUSED
	J	EXCUSES WITNESS NOON RECESS ADMONISHES JURY BE BACK AT 1:20 PM
1205	J	WE ARE IN RECESS
122	J	PLEASE BRING IN THE JURY

123	J	MR MARSHALL
	LM	CALLS DETECTIVE BURKE
	CLERK	SWEARS WITNESS
	LM	DIRECT
	HB	<p>HOWARD B U R K E DETECTIVE BCSO HISTORY LAW ENFORCEMENT FOR ABOUT 25 YEARS MAIN INVESTIGATOR ON THIS CASE NUMBER OF DETECTIVES 5; NOVEMBER 2008 THINK THERE WERE 6 KATIE RIVIERA WAS DETECTIVE IN NOVEMBER 2008 REMEMBER RECEIVING NOTIFICATION OF INCIDENT; WAS PREPARING FOR BED; LIVE HERE IN TOWN; WENT TO SAGLE NOVEMBER 27TH INTO MORNING OF NOVEMBER 28TH ARRIVED SHORTLY AFTER MIDNIGHT; RESPONDED TO TRAILER PARK BEHIND THE TRAVEL AMERICA TRAILER PARK – DESCRIBES LOCATION NOT REALLY FAMILIAR BUT HAVE BEEN IN THERE BEFORE OTHER OFFICERS ON SCENE PRIOR TO MY ARRIVAL; AT LEAST 6 WHEN ARRIVED ON SCENE TAKE CHARGE OF INVESTIGATION OF EVENT THAT'S TAKEN PLACE NO CRIME SCENE TAPE – USUALLY SET UP BY THE TIME I GET THERE, WHEN I ARRIVE CHECK TO MAKE SURE ALREADY IN PLACE; WAS DONE AND DEPUTY KEEPING PERIMETER CONTROL HOW ESTABLISH WHERE PERIMETER TAPE – NO SET RULE, TRY TO SET UP COVER ENTIRE EVENT, NOT TOO SMALL ARRIVED: FIRST THING I DID MEET WITH MY SUPERVISOR WHO HAD ALREADY ARRIVED; GAVE ME RUN DOWN, LT HARRIS; BASICALLY GAVE ME PRIMER, AND I KNOW WHAT I HAVE TO DO WHEN I GET THERE; TOLD HIM WANT TO GIVE INTERVIEWS PRIORITY INTERVIEW; CRIME SCENE SECURED, PEOPLE SITTING IN HOUSES AND VEHICLES FIRST INTERVIEWED MR ANDERSON; ;AT THAT TIME I BELIEVE HE IDENTIFIED HIMSELF AND I WAS TOLD WHO HE WAS; DIDN'T ASK HIM FOR ID SINCE HE WAS ALREADY IN POLICE CAR THERE WAS A PILE OF VOMIT ON THE GROUND IN FRONT OF HIM I WAS INTRODUCED; HE WASN'T SPEAKING WHEN I APPROACHED; HE BEGAN SPEAKING WHEN I SPOKE TO HIM TALK TO MR ANDERSON READ MIRANDA RIGHTS RECORDED EVENT LITTLE DIGIT RECORDER JUST PRESS A BUTTON TO RECORD; VERY SENSITIVE BY TIME GOT THERE LIGHTS HAD NOT YET BEEN SET UP; HEADLIGHT ILLUMINATION WEATHER REMEMBER COOL AND CLEAR, NO PRECIPITATION SOMEWHAT COOL VEHICLE MR ANDERSON IN NOT RUNNING BELIEVE POLICE CAR RUNNING AND WARM VEHICLES ARE RESIDENCE OFF AS FAR AS I COULD TELL MIRANDA RIGHTS; HE SAID HE WOULD SPEAK TO ME PROVIDED RECORDING OF THAT, DIGITAL RECORDER ONTO CD</p>
		MARK STATE'S EXHIBIT 47
133	LM	GOING TO PLAY – MOVE TO ADMIT
	IR	NO OBJECTION WITH REDACTIONS PREVIOUSLY DISCUSSED
	J	47 IS ADMITTED
134		RECORDING PLAYING
140		RECORDING CONTINUES TO PLAY
145		RECORDING CONTINUES TO PLAY
148		RECORDING STOPPED
149	LM	RESUMES DIRECT

	HB	<p>AFTER THAT INTERVIEW; DEPUTY MARTINEZ TOOK ME I ASKED TO GO TO IAN FRIER'S PLACE AT PADILLA RESIDENCE STATE PATROL VEHICLE THERE; ISP VEHICLE THERE; MR FRIER WAS IN VEHICLE HEARD 911 TAPE FROM IAN FRIER – YES AT THIS MEETING HE HAD CALMED DOWN; STILL HAD HIS MOMENTS BUT FURTHER BETWEEN SPOKE COHERENTLY LISTENED TO HIS TESTIMONY PRETTY COHERENT HERE; STILL EMOTIONAL BUT COHERENT HOW LONG SPENT – NO WAY OF KNOWING – 15/20 MINUTES PROBABLY AFTER THAT, DURING DISCUSSION TALK WE HAD HE HAD KICKED OFF HIS SHOES; HAD MARTINEZ COLLECT THOSE FOR EVIDENCE ASKED A BUNCH OF QUESTIONS</p>
152	HB	<p>KNOWLEDGE AT THAT POINT GOING TO DESTINATION OF IAN FRIER SHINING LIGHT TO SEE WHAT WAS THERE AND WHERE I WAS GOING BETWEEN SPACE 60 AND 59 LATER FOUND OUT SPACE 59 BELONGED TO MR GEE WHEN SAW MR FRIER HE WAS IN PATROL CAR THINK HE WAS AT NUMBER 49; WALKED OVER THERE POLICE CAR SITTING OUTSIDE OF THAT TRAILER DID NOT FIND ANYTHING</p>
154	LM	CONTINUES DIRECT
	HB	<p>AT END OF NIGHT RECEIVE EVERYTHING FROM EVERYONE GO TO EVIDENCE TECH AND I AM NOTIFIED NO WEAPONS; TOOK POCKET KNIFE OFF MR ANDERSON – DIDN'T CONSIDER A WEAPON; SAW NOTHING CONSIDERED A WEAPON TOOK THE HANDGUN THAT NIGHT FOUND NOTHING ELSE NO POCKET KNIFE ON MR HOLT I DID NOT PERSONALLY SEARCH HIS CLOTHES FUNERAL ATTENDANT AND CORONER WERE THEY AND WENT THRU HIS POCKETS DID NOT FIND WEAPONS, BUT OBSERVED ON HOOD OF CAR; ASSUME PATROL OFFICERS TOOK THEM; ASSUMED PATROL OFFICER ACTION FOR OFFICER SAFETY .44 MAGNUM WHEN FIRST SAW IT, INSIDE TRAILER ON CORNER OF MAKESHIFT TABLE NOT WITH OTHER FIREARMS ON HOOD OF CAR INTERVIEWED MR FRIER; LEFT MR FRIER AND WENT DIRECTLY TO ANDERSON TRAILER; MATTINGLY WAS THERE; LT DRAKE OR SGT; OFFICER DRAKE; LEEANN WAS THERE; JOSH WAS THERE; BELIEVE HE WAS SITTING ON COUCH</p>
157	HB	<p>OFFICER DRAKE INTRODUCED ME TO LEEANN SHE HAD A BOOK ASKED HER FOR HER HELP SHE SPOKE WITH ME HER DEMEANOR – IT VARIED; UP AND DOWN WHEN BEGAN KINDA JOKING, DIDN'T KNOW WHAT TO CALL HER CONVERSATION NOT AS STRESSFUL – I WAS STRESSED OUT; NO SHE DIDN'T SEEM REAL STRESSED ASKED HER FOR HER HELP; CAN YOU HELP ME; SHE SAID I THINK I CAN; I SAID TELL ME WHAT HAPPENED MR FRIER TRIED TO GET HIS BROTHER TO LEAVE – OCCURRED WHEN SHE STEPS OUT THE DOOR AND ASKS IF SHE SHOULD CALL THE POLICE CONFRONTED BY MR HOLT; ENGAGED VERBALLY MR FRIER TRIED TO COME AND GET HOLT OUT OF THERE LISTENED TO HER TALK</p>

		ASKED IF SHE
200	IR	OBJECTION – HEARSAY
	LM	IMPEACHMENT PURPOSES OF MRS ANDERSON
	J	WILL ALLOW IT
	HB	ASK IF MRS ANDERSON FELT THREATENED, SHE SAID NO SHE DID NOT FEEL THREATENED AFTER DONE WITH MRS ANDERSON, I WENT INTO THE AREA OF THE EVENT
	LM	STATE'S EXHIBIT 1 ASK ALLOWED TO SHOW TO JURY AT THIS TIME
	J	YOU MAY
202	LM	SCENE OF THE EVENT
	HB	THAT'S PART OF THAT AREA, YES WENT THERE; IN THIS TRAILER, ENTERED STRAIGHT THRU HERE AT TIME PICTURE TAKEN THERE WAS LIGHTING THERE WAS ALWAYS LIGHTING IN THIS AREA ESTABLISH WHOSE VEHICLES – BLUE ONE ANDERSON'S RAN A REGISTRATION CHECK ON LICENSE THIS WHITE ONE IT HAD TEMPORARY TAG ON BACK WINDOW; HANDWRITTEN IDENTIFIER EVENTUALLY FOUND OUT MR FRIER'S OTHER TRUCK IN PICTURE, NOT INTERESTED AT THAT POINT, THIS ONE DID NOT COME BACK TO THE ANDERSON'S RAN REGISTRATION, ASKED LEANN LINE BETWEEN PAVEMENT AND DIRT BODY STRADDLING THAT LINE SECURED SCENE; PARAMEDIC WHO WALKED OUT GAVE ME WRITTEN STATEMENT
205	HB	HE WAS IN ONE OF MY CLASSES, DO TEACH NOT TO DISTURB THE BODY ANY DISTURBANCE WAS NOT APPARENT TO ME PARAMEDIC HAD BEEN TO SEEN PRIOR TO MY ARRIVAL I DIDN'T TAKE PHOTOGRAPHS IMMEDIATELY GOT MY CAMERA ENTERED THE SCENE AND TOOK PICTURES STATE'S 1 TAKEN BY KATIE RIVERA ASSISTING IN INVESTIGATION DEAN SATCHWELL WAS EVIDENCE TECHNICIAN I REQUESTED KATIE RIVERA WHO I WAS TRAINING AS DETECTIVE AT THE TIME MR SATCHWELL MOVED TO ALASKA TRYING TO FIGURE OUT WHAT HAPPENED TALKED TO 3 PEOPLE WHO WERE IN EVENT THEY HAD TOLD ME A LOT OF THINGS NOW AT CRIME SCENE AND LOOKING TO CONFIRM OR DENY INFORMATION I WAS LOOKING FOR ACCUMULATE ELEMENTS OF CRIME INFORMATION LOOKING FOR – WHAT I HAVE TO DO IS FIND ELEMENTS TO CRIME IF THERE IS A CRIME; IF BELIEVE CRIME HAS TAKEN PLACE LOOK FOR ELEMENTS OR LACK OF ELEMENTS HAVE TO DO THIS CAUSE I DON'T HAVE WARRANT FOR ARREST; HAVE TO JUSTIFY
208	IR	OBJECTION – OUTSIDE PRESENCE OF JURY
	J	EXCUSES JURY ADMONISHES JURY
209	IR	HIS STATEMENTS TANTAMOUNT TO EXPERT OPINION THAT CRIME DID OR DID NOT OCCUR IF PERCEPTION OF CRIME THAT IS ONE THING IF FOR SURE THAT IS A DIFFERENT FACTOR NOT HEARING THAT THIS IS HIS PERCEPTION THAT CRIME COMMITTED OR

		NOT; SOUNDED LIKE STATEMENT WHETHER THERE ARE ELEMENTS OF CRIME TO MAKE WARRANTLESS ARREST MISLEADS JURY
	LM	I'M GOING TO TRY AND STEER DETECTIVE BURKE AWAY FROM THIS JURY KNOWS HE WAS ARRESTED AM GOING TO STEER HIM AWAY FROM THIS
	J	CONCERNING ME, NOT ASKING FACTS NOT WHAT WAS FOUND DELVING INTO HIS INTELLECTUAL THOUGHT PROCESSES WHICH ARE NOT EVIDENCE LET'S STICK TO THE FACTS SUSTAIN THE OBJECTION WISH CURATIVE INSTRUCTION
	IR	LAST ANSWER STRUCK
	J	ALRIGHT
	LM	NO OBJECTION
211	J	PLEASE BRING IN THE JURY
212	J	AS MENTIONED THERE MAY BE TIMES DISREGARD STATEMENTS DISREGARD THIS WITNESS' LAST STATEMENT
	LM	VEHICLE ON ROADWAY
	HB	LOOKED AT THAT; VISUALLY EXAMINED IT EXAMINATION EXAMINED FENDER AREA WITH FLASHLIGHT LOOKING FOR IMPACT OR BRUSH UP AGAINST DIDN'T SEE ANY AT ALL LOOKED AT OTHER PARTS OF VEHICLE WALKED AROUND WHOLE TRUCK DID NOT TOUCH TRUCK UNTIL GOT TO VERY BACK OBSERVED FRACTURED WINDOW ON CANOPY FRONT WINDOW OF CANOPY WAS COMPLETELY SHATTERED, 3 HOLES IN SHATTERED GLASS WENT TO BACK AND KNEW I WOULD IMPOUND VEHICLE AND IT'S STANDARD PROCEDURE
	LM	STATE'S EXHIBIT 14
215	HB	VANTAGE POINT OF PHOTO - INSIDE THE TRUCK LOOKING OUT WENT INSIDE BACK OF TRUCK; I INDICATED THE EVIDENCE THINGS WANTED RECOVERED KATIE RIVERA WENT IN BACK HOLES IN CANOPY DISPLAYED IN PHOTO
	LM	SHOW JURY
	HB	OTHER DAMAGE - NO BUT AT THIS TIME I LEFT TO WHERE IAN FRIER WAS BEING MAINTAINED ASKED IF HE KNEW IF WINDOW BROKEN MR FRIER SAID ALL WINDOWS INTACT INDICATES LOCATION OF BOND IN RELATIONSHIP TO STATE'S 14 NO FURTHER EXAMINATION OF VEHICLE AT THE SCENE
217	HB	NEXT DO - DON'T KNOW SPECIFIC ORDER: EXAMINED THE INTERIOR, EXAMINED THE BODY AT THIS TYPE; WHAT MEAN BY EXAM - LOOK AT VISUALLY LOOKING FOR PHYSICAL THINGS THAT MAY BE PRESENT FROM THE VERBAL THINGS PEOPLE HAVE TOLD ME AT MR HOLT'S BODY EXAMINED HIS HAND LOOKING FOR BROKEN FINGERNAILS, ETC BEFORE THAT POINT HAD TALKED TO MR FRIER READ HIM HIS MIRANDA RIGHTS DID NOT LOOK AT HIS HANDS; DID NOT LOOK AT HIS FACE REAL CLOSE; CONTINUES TO DESCRIBE REVIEW OF SCENE
219	HB	MEASUREMENTS TAKEN - RIVERA AND DEAN SATCHWELL DID THAT I KNOW I DIRECTED KATIE TO ASSIST WITH MEASUREMENT; WAS TOLD BY SHERIFF THAT DEAN SATCHWELL HAD YEARS OF EXPERIENCE

		DIDN'T PACE IT FROM MUDROOM TO TRUCK – PROBABLY ABOUT 30 FEET LISTENING TO TAPE SPEAKING TO MR ANDERSON – WRITTEN STATEMENT
		MARK STATE'S EXHIBIT 48
222	LM	HAND YOU STATE'S EXHIBIT 48
	HB	COPY OF VOLUNTARY STATEMENT GIVEN BY MR ANDERSON
	LM	MOVE FOR ADMISSION OF STATE'S 48
	IR	NO OBJECTION
	J	48 IS ADMITTED
	LM	RESUMES DIRECT
	HB	TIME ON STATEMENT WENT OVER STATEMENT WITH MR ANDERSON; WHILE ON TAPE DEMEANOR ABOUT THE SAME BUT DETERIORATING GAVE STATEMENT BEFORE TALKED TO MR ANDERSON THE 2 ND TIME READ IT BEFORE TALKING
		MARK STATE'S 49
	LM	MOVE TO ADMIT
	IR	NO OBJECTION
225	J	49 IS ADMITTED
226		CD OF INTERVIEW PLAYS
230		RECORDING CONTINUES TO PLAY
233		END OF RECORDING
	LM	RESUMES DIRECT
	HB	HOW LONG BETWEEN INTERVIEWS AFTER ARREST, STAYED AT SCENE TO PROCESS THE BODY CORONER THERE; JUST ROWS OF CARS PEOPLE OUTSIDE YELLOW POLICE TAPE CONTINUING TO MAINTAIN PERIMETER NO EVIDENCE OF SIGNIFICANCE FOUND THAT MORNING
235	HB	SPOKE WITH MR ANDERSON THE NEXT MORNING LEFT SCENE AFTER 6 AM GETTING LIGHT I THINK RECORD 3 RD CONTACT – PART OF IT; MY RECORDER WOULDN'T WORK IN A HURRY AND WAS IN MY CARD READER; HOLD BUTTON ON BACK, READY TO RECORD COMES UP WITH SCREEN CONTINUES TO EXPLAIN WOULDN'T RECORD WENT AHEAD AND STARTED INTERVIEW UNRECORDED PORTION – YES REMEMBER IT STATEMENTS MADE BY MR ANDERSON: SAID HE HAD LIED TO ME, STATEMENTS HE HAD MADE WERE A LIE; HE GAVE ME A RENDITION WHERE HE HAD NOT BEEN JUMPED; SAID THREATS WERE STILL REAL; HAD BEEN THREATENED; HAD NOT BEEN JUMPED HE HAD RAISED THE GUN TO TELL THEM TO GET THE FUCK OFF HIS PROPERTY; HAD JUST GOT THE GUN UP AND THE GUN DISCHARGED ASKED HIM SPECIFIC QUESTION ANY REASON TO SHOOT THIS MAN AND HE SAID NO, NONE AT ALL
239	HB	QUESTION ABOUT ALTERCATION WITH ZIARNICK AND HINES TOLD HIM I READ POLICE REPORT AND IT SOUNDED LIKE HE WAS THERE; HE TOLD ME OF HIS PARTICIPATION IN THAT; SAID HE HAD GRABBED MR HINES THEN LET GO AND THEN SLID INTO BACK SEAT AND HELD HIM; AT SOME POINT HE HIT HIM; MR ZIARNICK'S INVOLVEMENT: SAID HE WAS POUNDING HIM IN THE FACE – DIDN'T TELL ME WHERE MR ZIARNICK WAS STANDING MR HINES IN FRONT SEAT, MR ZIARNICK POUNDING HIM; OUTSIDE DRIVER'S SIDE WINDOW AT SOME TIME DURING INVESTIGATION ABLE TO INTERVIEW MR ZIARNICK – YES; PATRICK ZIARNICK I HAD TWO INTERVIEWS FIRST PART OF DECEMBER FIRST INTERVIEW ASKED ABOUT PHONE CALLS, SAID ONLY ONE WAS FROM

		HIS WIFE AFTER EVENT HAD TAKEN PLACE ANYTHING ELSE SAID BEFORE TAPE RECORDER STARTED TO WORK BEGINNING OF INCIDENT, WHEN THEY FIRST COME TO DOOR HE THINKS THEY'RE AT WRONG TRAILER; HE DIDN'T KNOW THESE PEOPLE, STEP OUT AND THAT THEY WOULD GO AWAY; DIDN'T REALIZE WHY THEY WERE THERE UNTIL MENTIONED THE NAME HINES THERE WAS NO KNIFE; NOT CLEAR ABOUT SLAMMING AGAINST THE TRUCK WENT THRU ENTIRE INCIDENT ASK HIM SOME OF THOSE QUESTIONS SO THEY WOULD BE ON RECORDING HAD TOLD MR ANDERSON I WAS HAVING PROBLEMS WITH RECORDER MY ATTENTION ON HIM; DID LOOK DOWN
244		MARK STATE'S 50 MOVE TO ADMIT
	IR	NO OBJECTION
	J	50 IS ADMITTED
	LM	RESUMES DIRECT
	HB	RECORDING AT LEAST 7 HOURS LATER
245		RECORDING PLAYS
250		RECORDING CONTINUES TO PLAY
255		RECORDING CONTINUES TO PLAY
257		RECORDING ENDS
	J	TAKE AFTERNOON RECESS ADMONISHES JURY
258	J	PREVIOUSLY TALKED ABOUT DEFENSE WITNESS BEING TAKEN OUT OF ORDER
	IR	GOING TO CHECK AND SEE IF HE'S HERE
	J	HOW HANDLE BETWEEN NOW AND 5 O'CLOCK WHAT IS YOUR PLAN ASSUME HE'S HERE
	LM	I DON'T HAVE OBJECTION TO ANY WAY MS ROBERTSON WANTS TO HANDLE IT
	IR	TESTIMONY ABOUT 15 MINUTES UNLESS YOU HAVE EXTENSIVE CROSS HE IS HERE ASK WE TAKE HIM RIGHT AFTER FINISH OF DIRECT
	J	DON'T WANT US IN POSITION AT END OF DAY AND HAVE TO KEEP GOING
	LM	ACCEPTABLE TO COURT AFTER THIS PUT HIM ON STAND
	IR	ACCEPTABLE
301	J	WE ARE IN RECESS UNTIL 15 MINUTES
318	J	PLEASE BRING IN THE JURY
319	J	MS ROBERTSON CALL OUT OF ORDER
	IR	I DO
	J	EXPLAINS TO JURY TAKING WITNESSES OUT OF ORDER TO ACCOMMODATE THE LAWYERS HAVE WORKED TOGETHER ALTHOUGH DETECTIVE BURKE WILL BE ASKED MORE QUESTION
	IR	CALL DR SPENCER GREENDYKE
	CLERK	SWEARS WITNESS
	IR	DIRECT
		SPENCER DAVID GREENDYKE' ORTHOPEDIC SURGERY 22 YEARS 3318 GRAND MILL(?) LANE CD'A KNOW DEFENDANT; PATIENT LAST YEAR LEFT KNEE INJURY AT WORK TORN LIGAMENT AND SOMETHING ELSE DEBILITATING INJURY TO LEG IT OCCURS TO REQUIRED SURGERY - JULY 10 TH 2008 PERFORMED AT NW SPECIALTY HOSPITAL IN POST FALLS DESCRIBES SURGERY PERFORMED RECONSTRUCTIVE SURGERY OF ACL DESCRIBED ADDITIONAL CLEANUP OF KNEE

		DESCRIBES CLEANUP PERMANENT DISABILITY AFTER SURGERY – YES IMPAIRMENT RATING 8 PERCENT PLAY FOOTBALL AT 4 MONTHS LAST SAW NOVEMBER 17 2008 – STILL HAVING DISCOMFORT BUT PROGRESSING WITH THERAPY; 3 TIMES A WEEK FOR ALMOST 3 MONTHS DON'T RECALL IF ON CRUTCHES OR KNEE BRACE POST OP BRACE PLACED USUALLY WORN FOR 2 MONTHS OR SO; THEN GET CUSTOM BRACE TO WEAR FOR ABOUT A YEAR
324	IR	NOTHING FURTHER
	LM	CROSS EXAMINATION
	SG	NOT HOSPITALIZED FOOTBALL – TYPICAL FOOTBALL INJURY HAVE PERFORMED SURGERY ON FOOTBALL PLAYERS ABLE TO PLAY AGAIN HIGH RATE OF SUCCESS IMPAIRMENT RATING OF 8 PERCENT – WORKMAN'S COMP IMPAIRMENT EXPLAINS COMPENSATION FOR NOT FUNCTIONAL IMPAIRMENT, PHYSICAL IMPAIRMENT A WHOLE LEG IS 20 PERCENT IMPAIRMENT DID NOT PROHIBIT HIM FROM WALKING, JOGGING, SPORTS, LIFTING WHAT WAS – GAVE HIM WORK RESTRICTION SHEET LIMITED WORK HEAVY MACHINERY, DRIVE TRUCK; DIDN'T WANT HIM WALKING ON UNEVEN GROUND
327	LM	NOTHING FURTHER
	IR	NOTHING FURTHER
	J	JURORS HAVE QUESTIONS MAY WITNESS BE EXCUSED
	BOTH	NO OBJECTION
	J	EXCUSES WITNESS
328	J	DETECTIVE BURKE RETAKE THE STAND
	LM	RESUMES DIRECT
	HB	3 RD CONTACT WITH MR ANDERSON; IN INTERVIEW ROOM – HOLDING AREA LIGHTING ABOUT LIKE IN THIS ROOM BETTER THAN INTERVIEWS BEFORE ASKED HIM IF HE WAS OK; ASKED HIM HOW HE WAS DOING EITHER HE TOLD ME HE HAD THROWN UP OR SOMEONE TOLD ME SAW NO PHYSICAL INJURIES HOW FAR AWAY WHILE TALKING TO HIM – 4 FEET APPROXIMATELY 3 RD CONTACT BOTH CONVERSATION OFF AND ON TAPE ANY MENTION BY MR ANDERSON OF PHONE CALLS TO PATRICK ZIARNICK DIDN'T KNOW AT THIS TIME THERE WERE PHONE CALLS TO PATRICK ZIARNICK SEE CLOTHES MR ANDERSON WEARING AT SCENE – NO, ALREADY TAKEN FROM HIM COLLECTED THAT CLOTHING – I SAW IT IN A PAPER BAG; WENT STRAIGHT TO EVIDENCE HE WAS WEARING LOGGING BOOTS
		MARK EXHIBIT 51
331	HB	IDENTIFIES PHOTOGRAPH – RIGHT BOOT BELONGED TO MR ANDERSON LOGGING BOOTS
	LM	MOVE TO ADMIT
	IR	NO OBJECTION
	J	51 IS ADMITTED
	LM	PUBLISH TO JURY
333	HB	DEMONSTRATED HOW GUN WAS SHOT – SAID IT ACCIDENTALLY WENT OFF DID NOT PHYSICALLY DEMONSTRATE HOW IT WENT OFF

		TELL YOU WHERE WIFE LOCATED WHEN GUN WENT OFF – SAID SHE WAS ACTUALLY I HAD A PIECE OF PAPER IN HAND AND HE PLACED HIS WIFE OUT OF PROPORTION 3 OR 4 FEET; ISOLATED CHARACTERS DID NOT TELL DISTANCES PUT WHERE MR FRIER WAS ON DIAGRAM; COULDN'T FOLLOW WHAT HE WAS SAYING VERY SMALL DIAGRAM ON BACK OF 8X11 PIECE OF PAPER NOT IN SPECIFIC DETAIL SAID WHERE EVERYONE WAS HE WAS CLOSE TO HOLT; FRIER AND WIFE FARTHER AWAY DID NOT SAY GUN TOUCHING MR HOLT ANYTHING ELSE ABOUT TIME OF SHOOTING – GRABBED HIM; PUSHED DON'T THINK MR ANDERSON MADE MOVEMENTS WITH HANDS HEARD DURING TAPE ACCIDENT, DID HE EXPLAIN – HE WENT TO RAISE GUN TO TELL THEM TO GET OFF PROPERTY
336	IR	OBJECTION WHETHER OR NOT MR ANDERSON DID RAISE HIS HAND
	J	YOUR OBJECTION IS
	IR	DUPLICATING MR ANDERSON; CONFUSING TO JURY
	J	DON'T HAVE BASIS TO RULE ON THAT
	IR	OBJECTING PART OF HIS ANSWER NOT RELEVANT
	LM	UNDERSTAND WHAT MS ROBERTSON IS SAYING NEXT QUESTION TO TRY AND CLARIFY
	J	AS TO RELEVANCE OVERRULED
337	LM	RESUMES DIRECT
	HB	WITHOUT USING HANDS DID MR ANDERSON DEMONSTRATE – NOT DURING THAT INTERVIEW AT SOME POINT – YES WHEN – THERE WAS A SEARCH WARRANT TO TAKE MEASUREMENTS FOR MR SCHNECK; AT THAT PERIOD OF TIME ASKED MR ANDERSON MEASURED DISTANCE FROM HOLDING HAND OUT; MEASURE DISTANCE FROM GROUND TO WHERE HIS HAND WAS AT DID NOT ASK IF THAT'S WHERE HAND WAS AT WHEN SHOT MR HOLT MEASUREMENT – HAVE TO LOOK AT PICTURE BACK TO INTERVIEW, ANYTHING ELSE ABOUT THE ACCIDENT – SAID HE FORGOT HE HAD PULLED THE HAMMER BACK; BEFORE TAPE CAME ON CAN'T THINK OF ANYTHING AT THAT TIME SUBSEQUENT SEARCH WARRANT
340	HB	LAST CONTACT WITH MR ANDERSON WHEN TOOK MEASUREMENTS
340	LM	NOTHING FURTHER
	IR	CROSS
341	HB	TIME ARRIVE AT TRAVEL AMERICA PARK, LOT 60 CONVERSATION WITH LEEANN SPECIFICALLY, POSSIBLE THAT HER GIGGLE MIGHT HAVE BEEN NERVOUSNESS – OF COURSE WERE CHILDREN PRESENT – YES OFF AND ON POSSIBLE THAT HER DEMEANOR WAS TO CALM THE CHILDREN – ANYTHING OF COURSE IN THE POLICE REPORT YOU RECORDED CONVERSATION WITH LEEANN DO YOU STATE ...READS FROM REPORT... I REMEMBER THAT DOES NOT EVER SEE ? ALSO CORRECT HUSBAND PUSHING HER BACK AND HE FIRES – RECALL THAT FORWARD TO TIME OF LAST VISIT WITH MR ANDERSON; THAT PORTION OF YOUR POLICE REPORT RECALL WRITING THAT ...JAMES STILL CLAIMS TALL GUY CAME INTO HOUSE ... RECALL STATEMENT REMEMBER HIM SAYING – RECALL THINGS SAID AND AS WRITTEN IN POLICE REPORT
345	HB	IAN'S VEHICLE WAS DRIVER'S WINDOW OPENED OR CLOSED – IT WAS OPENED ABOUT A THIRD; DEMONSTRATES HOW FAR OPEN, HOW FAR CLOSED

		<p>PASSENGER WINDOW – NOT SIGNIFICANT SAY CLOSED BUT DON'T RECALL SMOKING INSIDE – DON'T THINK I GOT THAT CLOSE</p> <p>CAB PORTION OF VEHICLE; LOOKED IN WITH FLASHLIGHT</p> <p>DIDN'T SMELL CIGARETTE OR ANYTHING ELSE</p> <p>HAD NO INTENTION OF EXAMINING THE INSIDE</p> <p>WENT OVER TO FIND MR FRIER AT THE PADILLA'S MOBILE HOME, WHAT ROUTE TAKE – WENT BETWEEN TRAILER 59 AND 60; HAD NO KNOWLEDGE OF ROUTE HE TOOK; THAT WAS ONLY ONE I SEARCHED</p> <p>DID YOU PERSONALLY DIRECT ANY KIND OF SEARCH PATTERN OF MANY DIFFERENT ROUTES THAT COULD HAVE BEEN USED BY MR FRIER</p> <p>I MADE IT KNOWN TO DEAN SATCHWELL THAT I WANTED SEARCH</p> <p>ASKED HIM TO SEARCH AREA – DITCH, WOODED AREA AND I WENT BACK THIS WAY; HE SAID HE SEARCHED THE PERIMETER</p> <p>INQUIRED ABOUT SEARCH BUT ONLY ONE I DIRECTED WAS TO DEAN SATCHWELL</p> <p>I DID INQUIRE ABOUT OTHERS – DEPUTY MARTINEZ, HE WAS LOOKING FOR A PHONE; ASKED ME LATER FOR CAMERA BECAUSE THEY HAD LOCATED THE PHONE</p> <p>DID NOT FIND POCKET KNIFE</p> <p>LOCATE MR HOLT'S POCKET KNIFE – I DIDN'T KNOW MR HOLT HAD POCKET KNIFE</p> <p>MR FRIER TESTIFIED – I DID NOT HAVE KNOWLEDGE</p> <p>I ASKED MR FRIER THAT QUESTION BUT ANSWER SIMILAR BUT DIFFERENT; HAD SEEN ELI WITH KNIFE EARLIER IN THE DAY BUT DID NOT KNOW IF HAD THAT NIGHT</p>
349	HB	<p>TEST MR FRIER FOR BAC – DID NOT</p> <p>WHY – PROBABLY MY CONCERN OVER HIS WELL BEING – OVERSIGHT</p> <p>HE SEEMED TO BE VERY FRAGILE; CALLING FOR A CHAPLAIN, HIS MOTHER OR SOME RELATIVE</p> <p>PRETTY EMOTIONAL; I WAS PRETTY EMOTIONAL</p> <p>PROBABLY OVERSIGHT</p> <p>HE TOLD ME HE HAD BEEN DRINKING; TOLD ME HE HAD TOO MUCH TO DRINK</p> <p>IT HAD BEEN AN HOUR IN STATE TROOPER'S CAR; DON'T KNOW IF BENNETT DID OR NOT</p> <p>BAC ON MR ANDERSON</p> <p>NORMALLY THOSE THINGS TAKEN AT JAIL IF REQUESTED; I DIDN'T REQUEST WHEN I WENT TO SEE MR ANDERSON, TAKEN BY SURPRISE WHEN HE DECIDED TO TELL ME THE TRUTH – JUST DIDN'T DO THAT</p> <p>REASON NOT REQUESTED WHEN YOU WERE LOOKING FOR SIGNS AS TO WHAT HAPPENED – DON'T HAVE REASON; HAD A LOT OF OTHER THINGS TO DO AT THE SCENE</p>
352	HB	<p>OBSERVE OR NOTE ANY INJURIES ON MR ANDERSON – NO I DID NOT</p> <p>NOTE OR OBSERVE – DID NOT OBSERVE OR NOTE</p> <p>MR ANDERSON DID A SKETCH DURING LAST INTERVIEW, CORRECT – YES</p> <p>WHERE IS THAT SKETCH – ON THE BACK OF THE MIRANDA FORM HE FILLED OUT BEFORE I STARTED TALKING</p> <p>DID YOU ASK MR ANDERSON ABOUT PHONE CALLS HE MADE – I DIDN'T</p> <p>HE TOLD ME CALLED 911 I KNOW THAT AFTER HE MADE 911 CALL WE ... HIS PHONE; DIDN'T INQUIRE AT THAT TIME</p> <p>LATER MADE INQUIRES</p> <p>TO CLARIFY HOLES IN CANOPY WERE THOSE – WHAT SIDE DRIVER'S OR PASSENGERS – DRIVER'S SIDE</p> <p>PRESENT AT AUTOPSY – NO</p> <p>NORMALLY GO – NORMAL EVENT</p> <p>DIDN'T GO THIS TIME; DEAN AND KATIE TRYING TO SECURE THE BUILDING FOR THE WHITE VEHICLES; HAD FULL PLATE; INSTRUCTED THEM TO TAKE PHOTOGRAPHS; KNEW SALLY WOULD TAKE PICTURES AND GIVE ME REPORT</p>

		GAVE KATIE INSTRUCTIONS LOOK FOR SIGNS OF POSSIBLE STRUGGLE WHO FOLDED HANDS TOGETHER – DEMONSTRATES HOW THEY WERE AND MUSCLES RELAXED TRACE EVIDENCE NORMALLY HANDLED BY BCSO -
356	HB	BONNER COUNTY HAS ITS OWN LAB; EVERY CRIME SCENE UNIQUE; SEVERAL WAYS TO HANDLE THAT IF BONNER COUNTY CAPABLE THEN HANDLED NORMALLY I WOULD DO THE SCENE AND I DIDN'T DO THIS ONE ISP ALSO QUALIFIED AND GEARED – YES THEY ARE SEVERAL DIFFERENT WAYS FORENSICS COULD HAVE BEEN HANDLED FASTER – WHY RIVERA AND SATCHWELL IN TAKING PHOTOGRAPHS; STATE WOULD HAVE GOTTEN THERE ABOUT TIME WE WERE FINISHED CALLED STATE TO EXAMINE THE TRUCK TO SEE IF THEY COULD CONTRIBUTE ANYTHING TO MY FINDINGS; COULD NOT ADD ANYTHING TO MY REPORTS FIRST CHRONOLOGICAL TIME FOR FIRST INTERVIEW WITH MR ANDERSON – DARN GOOD QUESTION, SO MUCH ON MY MIND; PRETTY CLOSE TO TIME I ARRIVED; FIRST MADE CONTACT WITH HIM; HAD SUPERVISORS AND OTHER PEOPLE ON SCENE; RECEIVING INFORMATION; INQUIRY ON THE STATE – DID NOT MAKE THAT CALL, ASKED BY BENNETT IF I WANTED STATE LAB; LET LT HARRIS KNOW TIME YOU TALKED WITH MR ANDERSON – ISSUES DEALING WITH; SAY WITHIN 10 MINUTES OF GETTING THERE TIME ON THE WRITTEN STATEMENT 12:59 CAUSED HIM TO HAVE FORMS WHEN GOT DONE TALKING TO HIM TALKED TO MR ANDERSON MAYBE 15 MINUTES FIRST TIME WENT OVER TO SEE MR FRIER NEXT TIME OF 3 RD CONVERSATION – 10 MINUTES POSSIBLY; 2 ND CONVERSATION 3 RD CONVERSATION TIME AND HOW LONG – I DON'T KNOW AFTER 6 O'CLOCK ALL I CAN REMEMBER; TOTAL OF 10 TO 15 MINUTES LEAD DETECTIVE RESPONSIBLE FOR COORDINATING ENTIRE INVESTIGATION – YES
401	IR	NOTHING FURTHER
	LM	REDIRECT
	HB	COUPLE DAYS AGO, DEPUTY MATTINGLY TALKED OF RUNNING CODE TO SCENE – REMEMBER; LIGHTS AND SIRENS; HOW LONG IT TOOK NEVER DID AT NORMAL SPEED SANDPOINT TO TRAVEL AMERICA – VARIABLE FROM DOWNTOWN – 6 OR 7 MILES; 10 MINUTES FROM DOWNTOWN TIMELINE FOR MR FRIER AND MR HOLT AND THEIR ACTIVITIES – YES DIDN'T UNDERSTAND HOW DISPATCHERS RECEIVED PHONE CALLS CONTACTED MARCUS – ROBBINS – WORKS FOR BONNER COUNTY DIRECTOR OF COMMUNICATIONS MARTINEZ, BRIAN'S WIFE, SHE'S SUPERVISOR AT DISPATCH ABLE TO LEARN ASKED THEM FOR CLARIFICATION PRESENTED ME WITH REPORT ALL TIMES IN SEQUENCE THAT TIME LINE WHEN 911 SYSTEM STARTS COLLECTING CALLS ACTIVITIES OF MR HOLT AND MR FRIER TESTIFIED TO CAN'T ESTABLISH THRU DISPATCH HOW ESTABLISH – ASKED PEOPLE HOW LONG THEY WERE SOMEPLACE THRU WHAT PEOPLE TOLD ME WALKED AROUND MR FRIER'S TRUCK AT SCENE; SAW NO CIGARETTE BUTTS, WOULD NOTICE AS DETECTIVE; WOULD COLLECT AS EVIDENCE
405	HB	3 RD CONVERSATION WITH MR ANDERSON – FINGERS OVER TRIGGER GUARD – YES; IT'S IN THE HOUSE; PULLS THE HAMMER BACK AND PUTS HAND OVER TRIGGER GUARD; DON'T RECALL IF HE SAID WHICH HAND IAN FRIER NEVER SAID HE HADN'T BEEN DRINKING FIRST 2 TIMES TALKING TO MR ANDERSON I COULDN'T TELL IF MR ANDERSON WAS DRUNK

		DIDN'T SLUR BUT WAS GASPING FOR BREATH WAY FROM POLICE REPORT YOU COULD TELL US 3 RD INTERVIEW TOOK PLACE – REFRESH
408	HB	OK; LEFT SCENE AT 6 O'CLOCK; ARRIVE OFFICE AT 6:20; HOUR ON COMPUTER; MAKE IT 7:30; I DID PC 9:30 OR 9 SOMETIME EARLY THE NEXT MORNING
409	LM	NOTHING FURTHER
	IR	RE-CROSS
	HB	DID YOU GO TO CONNIE'S OR 219 AND TALK WITH BARTENDERS OR SERVERS – I DID NOT 3 RD INTERVIEW, IS YOUR TAPE RECORDER ONLY ONE THAT WAS AVAILABLE THAT DAY – IN THAT JAIL CELL; I HAVE NO IDEA WHAT ANYONE ELSE HAD MY TAPE RECORDER ONLY ONE AVAILABLE TO ME THAT EVENING ONLY ONE I HAD WITH ME DIDN'T TRY TO BORROW ONE FROM SOMEONE ELSE WHY NOT – I DON'T KNOW, NO ONE AROUND THAT I KNEW I WAS JUST ALONE; NEVER BORROWED FROM THE JAIL; I COULD HAVE ASKED SHERIFF'S DEPARTMENT RIGHT THERE WITH JAIL; SAME BUILDING
411	IR	NOTHING FURTHER
412	LM	REDIRECT
	HB	PRETTY CERTAIN ON QUESTIONS WHEN TAPE NOT RUNNING
412	BOTH	NOTHING FURTHER
	J	JURORS QUESTIONS
		MARK COURT'S 23, 24
	J	EXCUSES JURY ADMONISHES JURY
413	J	FIRST QUESTION COURT'S 23
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	LM	NO OBJECTION BUT THEY ARE NOT ADMISSIBLE
	IR	AND I WILL OBJECT HEARSAY POTENTIAL
	J	OR IAN FRIER
	LM	SAME IF HE ANSWERS GIVE INSTRUCTION THAT SOME TAPES NOT ALLOWED TO PLAY IN COURT
	J	INTERESTING ISSUES NOT SURE WHETHER OR NOT PORTIONS OF TAPE WOULD BE IMPEACHMENT WOULD THEY
	LM	STATE'S PERSPECTIVE; WOULD IMPEACH MRS ANDERSON HAVE ASKED DETECTIVE BURKE MR FRIER MY WITNESS NOT SEEK TO IMPEACH
	IR	AT THIS TIME THEY WOULD TEND TO IMPEACH I HAVE OTHER WAYS OF GOING AROUND THAT, NOT LOCKED INTO IT AT THIS POINT
	J	INSTRUCT JURORS CERTAIN ITEMS CAN NOT BE ADMITTED OR CAN NOT LISTEN TO CERTAIN ITEMS
	IR	CURATIVE INSTRUCTION IS NECESSARY
	J	WHAT WOULD YOU LIKE IT TO BE TAKE A FEW MOMENTS TOGETHER
	IR	BASED ON STATUS OF LAW AT THIS TIME THERE ARE CERTAIN MATTERS OF EVIDENCE SUCH AS TAPED CONVERSATIONS THAT MAY NOT BE ADMITTED INTO EVIDENCE AT THIS TIME
419	J	SUGGEST THE FOLLOWING INSTRUCTION AS STATED IN INITIAL JURY INSTRUCTIONS SPECIFIC RULES APPLY IN THIS CASE RULES OF LAW PRECLUDE ADMISSION OF THESE CONVERSATIONS

420	J	I WILL READ JUROR'S QUESTION WITNESS RESPOND YES THEN I WILL GIVE ADDITIONAL INSTRUCTION AGREEMENT
	LM	FROM STATE
	IR	YES
421	J	PLEASE BRING IN THE JURY
421	J	WHERE WAS
	HB	PHONE FOUND UNDER PIECE OF WOODEN FURNITURE ON PADILLA'S PORCH RECORD CONVERSATIONS - YES
	J	ADDITIONAL INSTRUCTION TO GIVE YOU AS STATED IN INITIAL JURY INSTRUCTIONS, SPECIFIC RULES OF LAW APPLY TO EVIDENCE IN THIS CASE THE RULES OF LAW PRECLUDE THE ADMISSION OF THESE CONVERSATIONS ADDITIONAL QUESTIONS
	LM	YES
	HB	NOTHING ELSE FOUND ON PADILLA'S
	IR	NO QUESTIONS
	J	WITNESS MAY STEP DOWN
423	LM	STATE RESTS
	IR	MOTION TO MAKE OUTSIDE HEARING OF JURY
	J	ADDRESSES JURY HAVE WITNESSES
	IR	HAVE ONE HERE TO BE HEARD THIS AFTERNOON
424	J	EXCUSE JURY ADMONISHES JURY
	IR	MOTION FOR DIRECTED VERDICT OF ACQUITTAL OF 2 ND DEGREE MURDER AS CHARGED IN INFORMATION PROSECUTION HAS NOT MET ITS BURDEN BEYOND REASONABLE DOUBT THAT ELEMENTS OF 2 ND DEGREE MURDER OCCURRED UNLAWFUL KILLING OF HUMAN BEING ... READS FROM STATUTE NOT BEEN ESTABLISHED THIS IS UNLAWFUL KILLING OR MALICE AFORETHOUGHT 18-4003 DEGREES OF MURDER ARE LAID OUT; THIS BEING CHARGED AS 2 ND DEGREE MURDER BURDEN HAS NOT BEEN MET EITHER - ALL OTHER
426	LM	UNLAWFUL USE OF DEADLY WEAPON MALICE PRESUMED CLOSE CONTACT SHOT TO EYE OTHER TESTIMONY OF EYE WITNESS NO QUESTION MR ANDERSON SHOT AND KILLED ELI HOLT SPECULATION AS TO ACCIDENT REASONABLE JUROR COULD CONCLUDE INTENTIONAL ACT WHEN SHOOT MAN POINT BLANK RANGE THAT'S MURDER IN 2 ND DEGREE
427	IR	NATURE OF WOUND ITSELF DOES NOTHING TO INDICATE INTENT EVEN DR AIKEN COULD NOT SAY ANYTHING ABOUT INTENT LOOSE CONTACT
	J	DENY THE MOTION EVIDENCE AS PRESENTLY COMPOSED IS SUCH THAT THE JURY COULD RETURN THE VERDICT OF GUILTY OF 2 ND DEGREE NOT GOING TO COMMENT ON EVIDENCE AT THIS POINT
428	J	PLEASE BRING IN THE JURY
	IR	CALLS MR ROSS/WRONG WITNESS
	CLERK	SWEARS
429	IR	DIRECT
	WR	WILLIAM ROSS KNOW MR ANDERSON THANKSGIVING NIGHT WITH TARA HIGGINS

		HAD DINNER AT HER HOUSE FRIENDS WHILE THERE HAVE COMPANY - NO COME BACK LATER TIME - YES WHY - SHE COME OVER TO MY PLACE AND ASKED ME TO COME OVER SAID SHE HAD COUPLE FRIENDS COME BY; NOT NORMAL INDICATION WHY SHE ASKED - NO WHAT OBSERVED ABOUT 2 FOLKS THERE - NOTHING REALLY I HAD JUST MET ELI; KINDA KNEW IAN WERE INTOXICATED HOW LONG THERE - ROUGHLY AN HOUR IAN TOOK A PHONE CALL, WENT OUTSIDE, COULDN'T HEAR CONVERSATION MR HOLT DID NOT GO OUTSIDE WITH HIM HE WAS FRUSTRATED WHEN HE CAME BACK IN ACTING FRUSTRATED AND IRRITATED HE HAD SAID SOMETHING MONEY GOING TO LIBRARY TO PICK UP MONEY
432	IR	NOTHING FURTHER
	LM	CROSS
	WR	WHEN THEY LEFT DIDN'T KNOW WHERE THEY WENT LET ON THEY WERE GOING TO LIBRARY DIDN'T HEAR EITHER ONE OF THEM TALK ABOUT JAMES ANDERSON
	BOTH	NOTHING FURTHER
	J	QUESTIONS OF THIS WITNESS
		MARK COURT'S 25
434	J	EXCUSE JURY ADMONISHES JURY
	J	COURT'S 25
	BOTH	NO OBJECTION
	J	PLEASE BRING IN THE JURY
435	J	COURT'S 25
	WR	SEE ELI OR IAN DRINK - NO CAN'T SAY THAT I DID
	BOTH	NO FURTHER QUESTIONS
	IR	CALLS
	CLERK	SWEARS
	IR	DIRECT
437	CB	CHRISTOPHER BONNER DETENTION DEPUTY FOR BCSO TAKE PICTURES OF FOLKS BOOKED IN - MUG SHOTS ADDITIONAL PHOTOS WHEN INJURIES TO PEOPLE COMING IN TYPE OF PICTURES TAKEN - TOOK THOSE PICTURES
	IR	MOVE TO ADMIT EXHIBITS C AND D
	LM	NO OBJECTION
	J	C AND D ARE ADMITTED
	IR	RESUMES DIRECT
	CB	TOOK PHOTOS DAY FOLLOWING THANKSGIVING SHOW TO JURY AND POINT OUT RED MARKS MR ANDERSON'S NECK, RED MARKS ON FRONT NEXT PICTURE SIDE OF HIS FACE, REDNESS AROUND EYE AND CHEEK
	IR	MAY I PUBLISH AT THIS TIME
	J	YOU MAY; START TOP RIGHT FROM MY PERSPECTIVE
441	IR	NOTHING FURTHER
	LM	CROSS
	CB	HOW TAKE PICTURES - DIGITAL STRAIGHT TO COMPUTER; ATTACHED TO SPILLMAN INDIVIDUAL'S ACCOUNT EXPLAINS SPILLMAN PROGRAM THESE PICTURES TAKEN WITH DIGITAL CAMERA UPLOADED INTO COMPUTER SYSTEM

		STILL HAVE IN SYSTEM WE DO NOT HAVE ABILITY TO PRINT OUT PHOTOGRAPHS
442	LM	NOTHING FURTHER
	IR	NOTHING FURTHER
	J	WAIT A MOMENT WHILE JURORS REVIEW PHOTOS; MAY HAVE QUESTIONS OF YOU
444	J	EXCUSES ADMONISHES
		MARK COURT'S 26, 27, 28
	J	COURT'S 26 QUESTION
	BOTH	NO OBJECTION
	J	COURT'S 27
	LM	OBJECTION
	IR	OBJECTION
	J	WON'T GIVE
	J	COURT'S 28
	BOTH	NO OBJECTION
446	J	BRING IN THE JURY
	J	ACCURATELY DEPICT WHAT SAW
	CB	YES
	J	BLACK EYE OR IS IT PHOTOGRAPH COLOR CAME OUT
	CB	REVIEW PICTURE ONE MORE TIME
	J	YOU MAY
	CB	BELIEVE IT IS SHAME; RECALL THERE WAS BRUISING RIGHT HERE, NOT BY THE LIGHT SLIGHT BLACK EYE AT THAT TIME MAJORITY OF PICTURE TO CAPTURE REDNESS ALONG CHEEKBONE SLIGHT BRUISING ON INSIDE REST SHADING FROM LIGHTS
	J	FURTHER QUESTIONS
	IR	NO
	LM	HOW OLD BLACK EYE WAS
	CB	COULDN'T TELL DID NOT NOTICE BLEEDING NOSE DIDN'T NOTICE BLOOD AROUND NOSE AT ALL
	J	EXCUSE WITNESS
	BOTH	YES
	IR	BALANCE OF WITNESSES
449	J	GOING INTO RECESS GIVE JURY INSTRUCTION NUMBER 9 – PLEASE WAIT
450	J	READS INSTRUCTION NUMBER 9 MS LARSON PLEASE REPORT THIS, NOT GIVING IN ENTIRETY PORTION OF NUMBER 9 COMING UP ON WEEKEND REEMPHASIZE
451	J	READS INSTRUCTION 9
453	J	EXPLAINS OTHER SOURCES OF INFORMATION HAVE A PLEASANT WEEKEND COUNSEL HOW LONG TESTIMONY TO LAST
	IR	FULL DAY TO DAY AND A HALF
	LM	REBUTTAL – IT'S HARD TO ANSWER IF I DO PROBABLY NOT MORE THAN COUPLE HOURS
	J	LET YOU KNOW WE HAVE ESTIMATES HOW LONG THINGS TAKE DEPEND ON BREAKS, ISSUES, ETC INFORM YOU AFTER TESTIMONY COMPLETED THERE WILL BE DELAY – HOW LONG NOT SURE LAWYERS AND I WILL GO OVER JURY INSTRUCTIONS YOU WILL BE GIVEN

		JURY INSTRUCTION CONFERENCE PRINT JURY INSTRUCTIONS FOR ALL OF YOU HOW LONG I'M NOT SURE TRYING TO GIVE YOU ESTIMATE OF COURSE DELIBERATIONS; GIVE YOU IDEA WHERE WE'LL BE NEXT WEEK SEE YOU 9 AM MONDAY MORNING
455		JURY EXCUSED
456	J	PLEASE BE SEATED OTHER ISSUES TO TAKE UP
	LM	BRIEFLY HAVEN'T HAD GREAT DEAL OF TIME TO WORK ON JURY INSTRUCTIONS NOT UNTIL CONCLUSION OF EVIDENCE MORE IMPORTANT THAN TYPICALLY ARE CONSIDERED ONE INSTRUCTION HAD TO DO WITH DERIVATION OF 1508
	J	I HAVE NOT
	LM	THAT WAS ALL I HAD
	IR	I HAVE NOTHING
	J	WE ARE IN RECESS IF THERE ARE MOTIONS TAKE UP AT 8:30 HAVE A GOOD WEEKEND, REST UP
457		END

State of IDAHO
Bonner County Sheriff's Office
Civil Division
4001 N. Boyer Ave.
Sandpoint, ID 83864

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2009 OCT 19 A 8:59

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Defendant Disposition:
James Mathew Anderson
468000 Highway 95; #60; P Sagle, ID 83860

Witness Disposition: PER Personal Service
Christopher Eugene Bonner
1007 Shilo Loop Naples, ID 83847
Served on: 15th day of October, 2009 by Wiens, C
Served to: Chris Bonner ()
Bonner Co Jail Sandpoint, ID 83864

Plaintiff Disposition:
State of Idaho

Process Number: C09-01757

Court Number: CR08-7529

I, Daryl D Wheeler, Sheriff of Bonner County Sheriff's Office do hereby certify that I received the foregoing Criminal Subpoena on the 14th day of October, 2009.

Dated the 16th day of October, 2009

Fees:		
Service:	0.00	Daryl D Wheeler, Sheriff
Mileage:	0.00	Bonner County Sheriff's Office, IDAHO
Other :	0.00	
Total :	0.00	

BY: *[Signature]*
Authorized Representative
Civil Division

Comments
Faxed copies/Original in booking with Sgt Inman

ORIGINAL

BONNER COUNTY PUBLIC DEFENDER
 Isabella Robertson (ISBN: 6068)
 406 S. Ella Street
 Sandpoint, Idaho 83864
 Phone: (208) 255-7889; Fax: (208) 255-7559

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff,

V.

James W. Anderson,

Defendant.

CASE NUMBER CR-2008 - 000 7529

SUBPOENA

TO: Deputy Chris Bonner, Bonner County
Jail, 4001 W. Boyer, Sandpoint, ID 83864

YOU ARE HEREBY COMMANDED that laying aside all excuses, you appear in the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, in Sandpoint, Idaho, on the 16th day of October, 2009, at the hour of 9:00 a m., as a witness in the above-entitled matter on the part of the defendant.

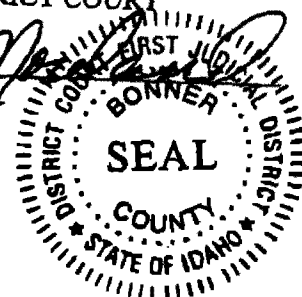
YOU ARE FURTHER NOTIFIED THAT IF YOU FAIL TO APPEAR AT THE PLACE AND TIME SPECIFIED ABOVE, THAT YOU MAY BE HELD IN CONTEMPT OF COURT AND THAT THE AGGRIEVED PARTY MAY RECOVER FROM YOU THE SUM OF \$100.00 AND ALL DAMAGES WHICH HE MAY SUSTAIN BY YOUR FAILURE TO ATTEND AS A WITNESS.

GIVEN UNDER MY HAND THIS 13 day of August, 2009.

Please call the Public Defender's office at (208) 255-7889 upon receipt of this subpoena to schedule the time for your appearance as a witness in this matter.

MARIE SCOTT

CLERK OF THE DISTRICT COURT

BY Judy M...
Deputy Clerk

SUBPOENA

State of IDAHO
Bonner County Sheriff's Office
Civil Division
4001 N. Boyer Ave.
Sandpoint, ID 83864

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

Defendant Disposition:
James Mathew Anderson
468000 Highway 95; #60; P Sagle; ID 83860

2009 OCT 21 P 2:01

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Witness Disposition: PER Personal Service
Christopher Eugene Bonner
1007 Shilo Loop Naples, ID 83847
Served on: 15th day of October, 2009 by Wiens, C
Served to: Chris Bonner ()
Bonner Co Jail Sandpoint, ID 83864

Plaintiff Disposition:
State of Idaho

Process Number: C09-01755

Court Number: CR08-7529

I, Daryl D Wheeler, Sheriff of Bonner County Sheriff's Office do hereby certify that I received the foregoing Criminal Subpoena on the 13th day of October, 2009.

Dated the 16th day of October, 2009

Fees:

Service: 0.00
Mileage: 0.00
Other : 0.00
Total : 0.00

Daryl D Wheeler, Sheriff
Bonner County Sheriff's Office, IDAHO
BY: [Signature]
Authorized Representative
Civil Division

Comments

ORIGINAL**BONNER COUNTY PUBLIC DEFENDER**

Isabella Robertson (ISBN: 6068)

406 S. Ella Street

Sandpoint, Idaho 83864

Phone: (208) 255-7889; Fax: (208) 255-7559

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER****STATE OF IDAHO,**

Plaintiff,

V.

James W. Anderson

Defendant.

CASE NUMBER CR-2007 - 0007529**SUBPOENA****TO:** Deputy Chris Bonner, Bonner County
Shari, 4001 W. Boyer, Sandpoint, ID 83864

YOU ARE HEREBY COMMANDED that laying aside all excuses, you appear in the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, in Sandpoint, Idaho, on the 19th day of October, 2009, at the hour of 9:00 a.m., as a witness in the above-entitled matter on the part of the defendant.

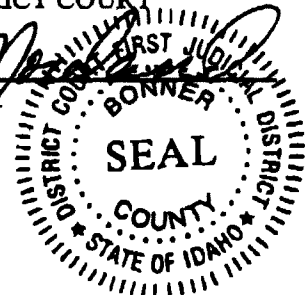
YOU ARE FURTHER NOTIFIED THAT IF YOU FAIL TO APPEAR AT THE PLACE AND TIME SPECIFIED ABOVE, THAT YOU MAY BE HELD IN CONTEMPT OF COURT AND THAT THE AGGRIEVED PARTY MAY RECOVER FROM YOU THE SUM OF \$100.00 AND ALL DAMAGES WHICH HE MAY SUSTAIN BY YOUR FAILURE TO ATTEND AS A WITNESS.

GIVEN UNDER MY HAND THIS 13 day of August, 2009.

Please call the Public Defender's office at (208) 255-7889 upon receipt of this subpoena to schedule the time for your appearance as a witness in this matter.

MARIE SCOTT
CLERK OF THE DISTRICT COURT

BY Judy M. [Signature]
Deputy Clerk

**SUBPOENA**

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SUSAN AYERLE
DIVISION: DISTRICT

CASE NO. CR-2008-7529
DATE: OCT 19 2009 **TIME:** 9:00 AM
CD: 09-255

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS
CHARGE

JURY TRIAL - DAY 5

INDEX	SPEAKER	PHASE OF CASE
901	J	Calls Case
		Present: DEFENDANT WITH ISABELLA ROBERTSON; LOUIS MARSHALL FOR STATE
	J	BRING IN THE JURY
902	J	GREETES JURY
	IR	CALLS MUELLER
	CLERK	SWEARS
	IR	DIRECT
	KM	KENNETH M U E L L E R PRONOUNCED MILLER LIVE IN BILLINGS MT PHYSICIAN; TRAINING UNDERGRADUATE IN WI; MED SCHOOL AT HARVARD INTERN AND RESIDENCY IN CINCINNATI PATHOLOGY - MEDICINE IN THE LABORATORY TRAINING IN FORENSIC PATHOLOGY SPECIALTIES WITHIN BROAD FIELD OF PATHOLOGY HAVE SERVED AS MEDICAL EXAMINER; FIRST IN ARMED FORCES 1970 TO 1980 IN AIR FORCE MEDICAL EXAMINER FOR STATE OF MT AUTOPSIES PREFORMED, ABOUT 4,000 LAST 30 YEARS FORENSIC AUTOPSIES - 3,000 HAVE TESTIFIED AS EXPERT WITNESS ONCE A YEAR FOR DEFENSE; NOT VERY OFTEN GUNSHOT WOUNDS - TYPICAL YEAR 200 AUTOPSIES, 10 TO 20 PERCENT SOMETHING TO DO WITH GUNSHOT WOUNDS FAMILIAR WITH CIRCUMSTANCES SURROUNDING DEATH OF ELVIN HOLT - REVIEWED EXTENSIVE PICTURES FROM AUTOPSY AND AT SCENE; 60 OR 70 OR MORE PICTURES DR AIKEN'S REPORT SUMMARY REPORT FROM MR CHRISMAN MULTIPLE OTHER REPORTS FROM LAW ENFORCEMENT PEOPLE AS WELL AS FORENSIC TYPE REPORTS
910	KM	GETTING PAID TO TESTIFY TODAY ATTEMPTS TO INFLUENCE - NO GENERAL HOW FORENSIC PATHOLOGISTS DESCRIBE GUNSHOT WOUNDS - A NUMBER OF DIFFERENT WAYS, START WITH DIVIDE INTO 3 - DISTANCE ONLY THING VISIBLE IS BULLET/SLUG, NO OTHER MATERIAL FROM END OF GUN; NEXT CLOSE RANGE, CAN SEE MATERIAL SUCH AS POWDER OR SMOKE OR SOOT, DIFFERENT NAMES MATERIAL COMES FROM GUN; ANYWHERE FROM 2 OR 3 FEET AWAY ON HIGH VELOCITY BUT USUALLY

		INCHES; THIRD MAJOR IS CONTACT – WEAPON ACTUALLY TOUCHING THE SKIN OF THE VICTIM; THOSE CAN BE DIVIDED UP INTO VARIOUS WAYS CONTACT CAN BE HARD CONTACT, OR LOOSE CONTACT, HARD LITTLE OR NOTHING ESCAPES END OF GUN; LOOSE CONTACT SEE SOME RESIDUE FROM GUN
	IR	STATE'S 21 AND 22 PLEASE DO NOT SHOW JURY, HAVE NOT BEEN PUBLISHED YET
	KM	WOUND IN HEAD CONTACT OR LOOSE CONTACT; ENTRANCE WOUND – FIRST PICTURE FRONT OF FACE OF LEFT EYE REGION SHOWS RELATIVELY NEAT DEFECT, ROUNDED JUST BELOW LEFT EYE; CAN SEE THE LOWER EYE LID AS WELL AS UPPER EYE LID
915	J	PLEASE IDENTIFY THE NUMBER OF THE DOCUMENT
	KM	STATE'S 21; FROM THE FRONT CONCENTRATES ON THE EYE; MINOR ABRASIONS ON UPPER EYEBROW; IDENTIFIES IT AS ENTRANCE WOUND IS THE THIN ABRASION OF RUBBING AWAY OF SKIN ALL ROUND CENTRAL WOUND/DEFECT OUTSIDE OF THAT ABRASION, WHICH YOU DON'T SEE IN AN EXIT WOUND BUT DO SEE IN ENTRANCE WOUND GRAYISH/VERY DARK GRANULAR MATERIAL SURPRISINGLY NEATLY ARRANGED AROUND THE WOUND THAT'S THE KIND OF THING YOU SEE VERY CLOSE RANGE ENTRANCE WOUND
917	IR	CONTINUES DIRECT
	KM	IF LOOSE CONTACT MORE OF A STAR PATTERN OR TORN FLESH IF HARD CONTACT BUT EVEN LOOSE WITH WEAPON THIS SIZE IF IT'S TOUCHING AT ALL GOING TO CREATE TEARING, IF TOUCHING BLOWS THE SKIN APART; WHAT HAPPENS IN CONTACT RANGE; SKIN TORN AT AREA OF ENTRANCE; DIFFICULT TO TELL ENTRANCE FROM EXIT WOUND, SO MUCH DAMAGE
	IR	DRAW DIAGRAM AS TO HOW THAT WOULD LOOK
	KM	DRAW GENERALIZED APPEARANCE OF FACE – TALKING ABOUT SKIN UNDERNEATH LEFT EYE HERE FROM THE SIDE – EXPLAINS INABILITY OF GASES TO ESCAPE IF TOUCHING AND FORCED INTO THE WOUND SKIN GETS BLOWN BACK; UPPER AS WELL AND TORN, STARBURST KIND OF EFFECT LOOSE CONTACT – JUST BARELY TOUCHING OR ½ INCH AWAY OR SO, MUCH OF GAS STILL GOES UNDERNEATH SKIN AND BLOWS BACK TISSUE, VERY LITTLE IN WAY OF TEARING; EVIDENCE OF LITTLE BIT OF TOUCHING VERY LOOSE CONTACT AND VERY CLOSE AMOUNT TO SAME THING IN A SENSE; SKIN BLOWN BACK ON GUN
922	KM	CONTINUES DRAWING AND TESTIMONY DIFFERENCES BETWEEN CONTACT AND LOOSE CONTACT ESCAPE GASES NOT TOUCHING SKIN WHEN GUN WENT OFF
	IR	MARK DEFENSE EXHIBIT G MOVE TO ADMIT
	LM	NO OBJECTION
	J	G IS ADMITTED
	IR	CONTINUES DIRECT
	KM	DIRECT OR TRAJECTORY OF CONCLUSION FROM DR AIKEN'S REPORT – WHAT SHE'S SAYING ILLUSTRATING DIFFICULTY OF BEING CERTAIN OF MEASUREMENTS IN FORENSIC PATHOLOGY 20 DEGREES SOMEWHERE BETWEEN 18 AND 22 DEGREES OFF HORIZONTAL VERY DIFFICULT TO BE CERTAIN DRAW ANOTHER PICTURE HERE – DRAWS ON DEFENSE EXHIBIT G POINT WE MEASURE THESE THINGS WITH BODY LAYING FLAT; HEAD STRAIGHT UP – STANDARD ANATOMICAL POSITION DEMONSTRATES STRAIGHT THRU BULLET; TILT HEAD SLIGHTLY MAJOR

		<p>DIFFERENCE ON EXIT; CAN MEASURE IT BUT DOES IT MAKE SIGNIFICANT DIFFERENCE; WHEN I LOOK AT PICTURES AND STUDY DIMENSIONS OFFERED BY DR AIKEN, BE BETTER TO SAY SOMEWHERE BETWEEN ZERO TO 20 DEGREES</p> <p>POSSIBLE ADD PLUS OR MINUS</p> <p>MULTIPLE FRACTURES CHANGED</p> <p>NOT KNOWING POSITION HEAD IN AT TIME OF EVENT CAN'T TELL EXACTLY WHAT TRAJECTORY WAS</p> <p>CAN SAY FRONT TO BACK; LEFT EYE, BENEATH LEFT EYE, EXIT ON RIGHT SIDE OF OCCIPITAL AREA - BEHIND EAR</p> <p>FRONT TO BACK, LEFT TO RIGHT</p> <p>QUESTION IN MY MIND MEASURED AT 20 DEGREES, ESTIMATE ONLY ROOM FOR</p>
930	IR	CONTINUES DIRECT
	KM	<p>HOW CLOSE - RANGE OF DISTANCES THE WEAPON COULD HAVE BEEN FROM MR HOLT'S FACE, CLOSEST TO FARTHEST</p> <p>BETWEEN VERY CLOSE AND VERY LOOSE CONTACT</p> <p>SOMEWHERE BETWEEN BARELY TOUCHING, UP TO INCH AWAY</p> <p>SOMEWHERE IN BETWEEN THERE; MOST LIKELY AROUND ½ INCH OR SO</p> <p>HAS TO BE AWAY FROM SKIN A LITTLE BIT TO ALLOW MATERIAL TO GET OUT</p> <p>PROBABLY DOES TOUCH SKIN AFTER WEAPON HAS GONE OFF</p> <p>VERY CLOSE AND LOOSE CONTACT; TOUCHING AFTER THE FACT</p>
932	IR	NOTHING FURTHER
	LM	CROSS
	KM	<p>1965 GRADUATED HARVARD</p> <p>ONLY WORKING ABOUT 5 PERCENT OF THE TIME</p>
	LM	CAN SHOW TO JURY WHILE EXPLAINING
	KM	<p>21 FIRST</p> <p>SOMETHING ABOVE EYEBALL; ADDRESSES JURY DIRECTLY USING STATE'S 21</p> <p>ONE OF THOSE WOUNDS THE GUN DOES TOUCH THE SKIN</p> <p>WEAPON PRESSED AGAINST SKIN PRIOR TO</p>
935	IR	OBJECTION, CALLS FOR CONJECTURE WITNESS
	J	OVERRULED
	KM	<p>THESE ARE ABRASIONS, RUBBING AWAY OF SKIN</p> <p>IF GUN JABBED FORCEFULLY YOU'D SEE DIFFERENT MARK - CONTUSION</p> <p>CAN IT BE PLACED LOOSELY OR GENTLY WITHDRAWN ½ INCH IS POSSIBLE</p> <p>SIGHT ON MUZZLE ONE OF ABRASIONS</p> <p>BLOWBACK, NOT POKING OF GUN THEN FIRING; POSSIBLE BUT NOT LIKELY</p> <p>DOWNWARD ANGLE FROM ZERO TO TWENTY PERCENT</p> <p>STANDARD ANATOMICAL POSITION; STANDARD THROUGHOUT FORENSIC PATHOLOGY; CAVEAT - SELDOM POSITION IN LIFE SO NOT MISLED BY NUMBERS</p> <p>DR AIKEN WAS TRYING TO DO THAT; ILLUSTRATE THE PROBLEMS WE ALL HAVE</p> <p>GASES AND SOOT AND OTHER MATERIALS THAT COME OUT MUZZLE OF GUN; HERE .44 MAG REVOLVER; GASES COME OUT OF CYLINDER GAP</p> <p>HEARD MENTIONED BUT DIDN'T SEE REPORTS OR SEE PICTURES</p> <p>DID NOT REVIEW WILLIAM SCHNECK'S REPORT</p> <p>STIPPLING - ANOTHER TERM FOR BURNT AND UNBURNT POWDER</p> <p>GET BACK FAR ENOUGH, CONDENSATION OF GASSES THAT MAKE BULLET GO; DEPOSIT ON SKIN</p> <p>FURTHER BACK</p> <p>.44 MAGNUM FIRES A LARGE BULLET - .44 OF AN INCH, NEARLY ½ INCH</p> <p>TAKES A LOT OF GUNPOWDER</p> <p>MORE PARTICULATES COMING OUT; NOT SURE ABOUT CYLINDER, WOULDN'T BE SURPRISED; AS TO MUZZLE</p> <p>LARGER CALIBER HANDGUN MORE PARTICULATES COMING OUT OF MUZZLE</p>

		THAN SMALLER CALIBER; MORE SEEN THE FURTHER BACK THEY ARE YET STILL AT CLOSE RANGE VERY CLOSE GOES INTO WOUND ITSELF; WHAT HAPPENED IN THIS CASE
942	LM	NOTHING FURTHER
	IR	RE-DIRECT
	KM	DEFINE BLOWBACK - WHEN GAS GOES INTO SKIN AS IT MUST AT CONTACT OR VERY CLOSE RANGE; SKIN ITSELF IS LIFTED UP; BLOWBACK IS SKIN COMING TOWARDS GUN; CHANGE IN MOTION, GAS UNDER SKIN LIFTS UP AND BRINGS SKIN BACK TOWARDS WEAPON RED MARKS ABOVE THE EYE ATTRIBUTE TO BLOWBACK - MORE LIKELY EXPLANATION; SKIN COMING TO MEET THE GUN EXHIBIT STATE'S 21; 22 WE DIDN'T TALK ABOUT, THAT'S THE EXIT WOUND
944	IR	NOTHING FURTHER
	LM	RE-CROSS
	KM	TAKE INTO ACCOUNT RECOIL, GUN ALSO GOING BACK AND UP, GUN DOES NOT STAY STATIONARY - MOTIONS OF MOVEMENT OF BODY OF GUN ITSELF .44 HAS RECOIL - SLOWER PROCESS THAN SKIN ITSELF WOUNDS IN EYEBROWS BECAUSE GUN GOES UP; SKIN BLOWBACK HAPPENS MUCH QUICKER THAN WEAPON ITSELF BLOWBACK PLUS MOVEMENT OF GUN UPWARD MOVEMENT ON ALL PARTS, SOME QUICKER THAN OTHERS ALWAYS A CERTAIN AMOUNT OF UNCERTAINTY ABOUT RECONSTRUCTING SOME DOUBT AT PERIPHERY LEVEL OF UNCERTAINTY IN THIS CASE ABOUT 1/2 INCH
	J	OBJECTION TO CHANGE TO EXHIBIT G
	LM	NO
		MARK COURT'S 29 AND 30
	J	EXCUSES JURY ADMONISHES JURY
949	J	READS COURT'S 29
	BOTH	NO OBJECTION
	J	NEXT QUESTION
	LM	NO OBJECTION
	IR	OBJECTION - SPECULATION
	KM	EXPERIENCE AND WAY WE NORMALLY DO THINGS; THINK DR AIKEN DID THINGS IN NORMAL WAY; LOOK VERY CAREFULLY AT WOUNDS IN DIRTY STATE TO MAKE SURE WE'RE NOT MISSING ANYTHING I DIDN'T SEE; WASN'T THERE TO WASH THE BODY
	LM	THINK HE'S QUALIFIED TO ANSWER QUESTION
	J	I AGREE; GOES TO WEIGHT NEXT QUESTION
	BOTH	NO OBJECTION
951	J	PLEASE BRING IN JURY
951	J	FIRST QUESTION
	KM	YES, CLEANED OF BLOOD; TAKE PICTURES BOTH BEFORE AND AFTER CLEANING; PLENTY OF PICTURES TAKEN BEFORE CLEANED UP NEED TO CLEAN UP TO SEE WHAT REALLY LOOKING AT
	J	NEXT QUESTION
	KM	POSSIBLE, BUT UNLIKELY; ALL OF US IN FORENSIC PATHOLOGY AWARE OF IMPORTANCE OF EVIDENCE; LOOK AT BODIES CAREFULLY SO WE DON'T LOOSE EVIDENCE
953	J	FINAL QUESTION
	KM	CONTOUR OF FACE CHANGE HOW GASSES - YES IT DOES VARY DEPENDING ON LOCATION; MOST IMPORTANT FACTOR UNDERLYING BONE
955	IR	NO FURTHER QUESTIONS
	LM	HAVE STATE'S 22
	KM	YES, IS EXIT WOUND; IT IS ALSO CLEANED; HAIR SHAVED OFF TO GET LOOK AT SKIN SURFACES

		BOND UNDERNEATH EYE ZYGONA BONE DAMAGE DONE TO THAT BONE – SHATTERED; X-RAYS TAKEN THIS BOND AND MUCH OF UNDERLYING BONE BASE OF SKULL, BULLET WENT THRU SHATTERING ALL THOSE BONES, CREATING OTHER FACTURES AS WELL
957	LM	NOTHING FURTHER
	J	MAY WITNESS BE EXCUSED
	BOTH	YES
	J	EXCUSES WITNESS
957	IR	DEFENSE RESTS
	LM	TAKE 15 MINUTES TO PREPARE FOR REBUTTAL
	J	EXCUSE JURY ADMONISHES JURY
958	J	WHO IS WITNESS
	LM	HOWARD BURKE
	J	SUR-REBUTTAL
	IR	DEPENDS ON MR BURKE'S TESTIMONY
959		OFF
1017	J	PLEASE BRING IN THE JURY
1018	LM	RECALLS HOWARD BURKE
	J	REMIND STILL UNDER OATH
	LM	DIRECT/SUR REBUTTAL
	HB	KNOW JAILER TESTIFIED LAST WEEK – I DO NOT WORKS IN BCSO CHRIS BONNER; AT ANY TIME COME TO YOU ABOUT PICTURES – NO HE DID NOT DURING CONTACT WITH MR ANDERSON, DID NOT MENTION INJURIES FAMILIAR WITH SPILLMAN SYSTEM – COUNTY SOFTWARE STORE DATA WITH PICTURES TAKEN BY JAIL DEPUTIES DOWNLOADED INTO SPILLMAN SYSTEM FOUND PICTURES DEPUTY BONNER TOOK DOWNLOADED PHOTOS PUT ON CD
		MARK STATE'S 52 – CD OF DOWNLOADED PICTURES
	IR	WOULD LIKE TO VOIR DIRE THE WITNESS OUTSIDE PRESENCE OF JURY
	LM	WILL SEEKING TO SHOW PICTURES ESTABLISH FOUNDATION
	LM	HAND YOU STATE'S 52
	HB	CD PRESENTED THIS MORNING CONTAINS – WENT INTO SPILLMAN AND PULLED UP IMAGES TAKEN AT TIME MR ANDERSON FIRST BROUGHT IN MOVED THEM IN DIGITAL FORMAT AND PLACED ON DISK SO DIGITAL REPRESENTATION IN COMPUTER SAME AS THIS ONE
	LM	DEFENDANT'S EXHIBIT C
	HB	ONE OF PICTURES ON CD – SHOWS TO JURY
	LM	CONTUSION ACROSS NECK
	HB	SEE ON PHOTO; DID NOT SEE IN INTERVIEW; NOT TRUE REPRESENTATION OF WHAT I SAW DEFENSE EXHIBIT D – CLOSE UP OF – SHOWS JURY DID NOT SEE BLACK EYE STATE'S 52 – PHOTOGRAPHS ON CD SAME ONES DEPUTY BONNER TOOK NOVEMBER OF 28 TH AND DOWNLOADED INTO SPILLMAN
1024	IR	OBJECTION – OUTSIDE HEARING OF JURY
	J	EXCUSES JURY ADMONISHES JURY
1025	IR	OBJECTION CALLS FOR CONCLUSION AND SPECULATION THEY ARE SAME PICTURES HE WAS NOT PRESENT AT TIME PHOTOS TAKEN ADDITIONALLY NOT CLEAR WHETHER THEY COULD HAVE BEEN WASHED OUT IN SPILLMAN; NOT ADDRESSED

		NEITHER IS DETECTIVE BURKE EXPERT IN SPILLMAN, NOT THERE WHEN PHOTOGRAPHS TAKEN
	J	YOUR OBJECTION IS THIS WITNESS DOES NOT HAVE EXPERTISE TO REACH CONCLUSIONS AND LACK OF FOUNDATION
	IR	YES
1027	J	WHETHER OR NOT SAME PICTURES WOULD HAVE TO BE SPECULATION LAST ISSUE FIRST; HAVING BEEN PRESENT LISTENING TO TESTIMONY OF DEPUTY BONNER; VIEWED PHOTOS ADMITTED, C AND D, ISN'T THAT ENOUGH FOUNDATION
	IR	TO TESTIFY TO THEM AS TO WHETHER THESE ELECTRONIC VERSIONS ARE SAME ONES WOULD BE UP TO DETECTIVE BONNER TO DETERMINE, NOT DETECTIVE BURKE
	J	DETECTIVE BONNER TOOK PHOTOS DOWNLOADED INTO SPILLMAN IDENTIFIED C AND D DETECTIVE BURKE GOING INTO SPILLMAN SYSTEM, SEEING C AND D WHAT MISSING IN TERMS OF FOUNDATION
	IR	IS SPILLMAN SYSTEM PRESERVED APPROPRIATELY THROUGHOUT THIS PERIOD OF TIME WOULD BE SPECULATION
	J	C AND D DOWNLOADED FROM SPILLMAN AS RELATES TO FOUNDATION AS TO HIM IDENTIFYING PHOTOS IN SYSTEM OVERRULING AS TO WHETHER WASHED OUT OR NOT RELATES TO FOUNDATION AS TO WHAT HE VIEWED IN SPILLMAN AND THINK HE CAN TESTIFY TO THAT AND GOES TO WEIGHT
	LM	I AGREE WITH THAT
	IR	AS TO WHETHER OR NOT ACCURATE DEPICTIONS OF WHAT DETECTIVE BONNER SAW
	J	I AGREE AGREE AS TO THAT BEING SPECULATION AS TO WHETHER THIS IS WHAT BONNER SAW DISTINCTION BETWEEN THESE PHOTOS AND WHAT'S IN SPILLMAN RELATES TO PHOTOS THAT THIS WITNESS DOWNLOADED ONTO CD WHICH WOULD THEN BE SHOWN TO JURORS IF THERE IS ADEQUATE FOUNDATION I WOULD ALLOW IT
1030	J	PLEASE BRING IN THE JURY
1031	LM	RESUMES
	HB	STATE'S 52 PRODUCED EVENING - FRIDAY AFTER MR BONNER TESTIFIED AFTER DEPUTY BONNER TESTIFIED; WITHIN LAST WEEK HOW DOWNLOAD FROM SPILLMAN ONTO CD - PROCESS: HAVE A LITTLE ICON ON COMPUTER GIVES YOU OPTION AT TO WHAT YOU WANT TO DO WITH IT; SEND TO, CLICK ON SEND TO, TAKE DIGITAL FORMAT SENDS TO LOCATION I TELL IT TO SEND IT TO; IN THIS CASE SENT IT TO DISK ONCE THERE, ANOTHER ICON, PROPERTIES; IF ALL BYTES HAVE ARRIVED DIGITAL SAME AS IN SPILLMAN; DID THAT FOR EACH PHOTO TAKEN NOVEMBER 28, 2008 SOFTWARE PROGRAMS TO ALTER ELECTRONIC FORMATS; FAMILIAR WITH A NUMBER OF THEM; DID NOT ALTER
	LM	MOVE TO ADMIT STATE'S 52
	IR	NO OBJECTION
	J	STATE'S 52 IS ADMITTED
	LM	PUBLISH TO JURY
	J	IT MAY
1035		LOADING PICTURES
	HB	RECOLLECTION REVIEW OF PICTURES FROM SPILLMAN NEVER SAW ANYTHING APPEARED TO BE BLACK EYE LOOKED AT PICTURES

1038	LM	NO FURTHER QUESTIONS
	IR	CROSS
	HB	INTERVIEWS WITH MR ANDERSON, 2 ND AND 3 RD ; PHYSICALLY IN BACK OF POLICE CAR WITH BOTH FEET STICKING OUT DOOR LIGHTING WAS POOR 2 ND INTERVIEW – SAME LOCATION; LIGHTING ABOUT THE SAME AS BEFORE THEN SAW HIM AT 7:30 LIGHTING CONDITIONS THEN – GOOD BETWEEN MIDNIGHT UNTIL 7:30 AM OF NOV 28 TH DIDN'T SEE MR ANDERSON TIME DEPUTY BONNER'S PHOTOS TAKEN – DO NOT RECALL TIME 200 HOURS, OR 2 AM WOULD NOT SURPRISE ME, WITHIN 3 HOURS OF THE ALTERCATION 5 ½ HOURS THAN WHEN YOU SAW HIM – CORRECT MR ANDERSON DIDN'T TELL YOU OF INJURIES; TOLD ME WAS CHOKED THE FIRST TIME I TALKED TO HIM AND THE 2 ND TIME OF I TALKED TO HIM ON 3 RD EVENT HE DOES NOT REFER TO IT THAT WAY; HIS STATEMENT HE HAD BEEN PUSHED WITH A HAND LIKE THIS GRABBED JAMES BY THE THROAT – NO PUSHED WAS INDICATION EARLIER TESTIMONY, DIDN'T LOOK FOR INJURIES – CORRECT DEPUTY BONNER TESTIFIED THAT IN HIS RECOLLECTION THE PICTURES C AND D WERE AN ACCURATE DEPICTION OF MR ANDERSON AT TIME HE TOOK PICTURES; RECALL THAT
1043	IR	NOTHING FURTHER
	LM	NO REDIRECT
	J	JURORS HAVE QUESTIONS
		MARK COURT'S EXHIBITS 31, 32
1045	J	EXCUSES JURY
	J	FIRST QUESTION
	BOTH	NO OBJECTIONS
	J	NEXT QUESTION
	BOTH	NO OBJECTION
	J	PLEASE BRING IN THE JURY
	HB	WHY DIDN'T CHECK FOR INJURIES – TRYING TO FIGURE OUT WHAT HAPPENED; ALL PARTIES IN EMOTIONAL STATES; NO SET PATTERNS SOMETIMES; EXCUSES FOR WHY NOT DONE; ALCOHOL INTAKE DIMINISHES SET PROCEDURES IN REGARD TO CHECKING OUT PARTIES
	J	
	HB	NO; IT WASN'T DONE NO ONE DENIED DRINKING AT LEAST AS FAR AS MR FRIER WAS CONCERNED; AT TIME TALKING TO MR ANDERSON HAD NO REASON TO CHECK HIM
1049	LM	QUESTION
	HB	AT NO TIME DID MR ANDERSON SAY HE HAD BEEN DRINKING MR FRIER VERY CLEAR HE HAD BEEN DRINKING "TOO MUCH"; STATED WHERE HE HAD BEEN DRINKING; WHY BROTHER DRIVING HELD KNIFE TO MR ANDERSON'S THROAT – DID NOT LOOK AT THROAT TO MAKE SURE HE WASN'T BLEEDING; HE DIDN'T ASK; IT WAS AN HOUR OR HALF HOUR AFTER EVENT; SURROUNDED BY POLICE OFFICERS AND MEDICAL PERSONNEL INFORMATION FROM THOSE PEOPLE – NO
1051	IR	SUR CROSS
	HB	MR HOLT DRIVING BECAUSE HE FELT HE WAS MORE SOBER MR HOLT'S BAC - .18
1051	IR	NOTHING FURTHER
	LM	NOTHING FURTHER
	LM	NO ADDITIONAL TESTIMONY
	IR	NO SUR REBUTTAL
	J	AT THIS POINT BOTH SIDES HAVE RESTED; ALL TESTIMONY YOU HAVE NOW HEARD

		AT THIS POINT HAVE TO GO OVER JURY INSTRUCTIONS NOW KNOW EVIDENCE PROPOSED JURY INSTRUCTIONS 4 PM THIS AFTERNOON, BUT CUTTING TOO CLOSE ON SAFE SIDE; EXCUSE YOU NOW COME BACK TOMORROW MORNING AT 10 O'CLOCK RETURN TOMORROW ADMONISHES JURY
1054	J	EXCUSES JURY
1054	J	LESSER INCLUDED, HAVE SOME FROM DEFENSE ISSUE OF INVOLUNTARY MANSLAUGHTER
	LM	THAT WAS ONE OF DEFENSES PROPOSED
	J	ALSO PROPOSED, INVOLUNTARY MANSLAUGHTER, ISSUE OF DEFENSES, WOULD THEY STILL APPLY DEFENSE OF ONESELF; DEFENSE OF ANOTHER GIVE SOME THOUGHT OR?
	LM	YES; DON'T THINK IMPLIED CULPABLE NEGLIGENCE IS WHAT INVOLUNTARY MANSLAUGHTER ALL ABOUT
	IR	DO THINK DOES APPLY LOOKING AT LAWFUL ACT AS ONE OF THE POSSIBILITIES; QUOTE FROM 18-4006 SUB 2 DEFENSES DO APPLY IN THIS CASE; MAKE WHAT APPEARS TO BE AN UNLAWFUL ACT LAWFUL, AS APPLIES TO A BATTERY
	LM	NOTHING MORE THAN WHAT I'VE ALREADY SAID AT THIS TIME
	J	MEET AT 3PM THIS AFTERNOON ADDITIONAL INSTRUCTIONS YOU WISH TO HAVE ME REVIEW GET THEM TO ME AS SOON AS POSSIBLE BE BACK HERE AT 3PM
1058		OFF
310	J	ASKED SECRETARY TO GIVE YOU COPIES OF JURY INSTRUCTIONS I HAVE NOT ADDRESSED ANY OF THE MISDEMEANOR ISSUES IN THESE INSTRUCTIONS MORE SERIOUS ISSUE ONE OF A LOGICAL CONSTRUCT - HERE'S WHERE I'M GOING TO THINK OUT LOUD FOR A FEW MINUTES DIFFICULTY I'M HAVING WITH REGARD TO THE THEORETICAL ANALYSIS RELATES TO BURDEN OF PROOF STATE HAS TO PROVE OFFENSES WERE COMMITTED AND THERE WAS NO EXCUSE OR JUSTIFIABLE HOMICIDE LOGICAL EXTENSION WHAT THEN OCCURS IS A DISCONNECTION BETWEEN INVOLUNTARY MANSLAUGHTER AND THE MISDEMEANORS INVOLUNTARY MANSLAUGHTER AS INCLUDED OFFENSE INCLUDES NEGLIGENCE WHERE IT BECOMES DIFFICULT TO GO THRU THE LOGIC RELATES TO THIS CONCEPT: IF THE JURORS COULD CONCLUDE HYPOTHETICALLY - CONCLUDE THAT EH ACTIONS THAT TOOK PLACE WERE JUSTIFIABLE OR EXCUSABLE THEN THERE IS JUSTIFIABLE HOMICIDE, NO FURTHER INQUIRY BUT AT NO TIME WILL DEFENDANT BE REQUIRED TO PROVE JUSTIFIABLE HOMICIDE SO COULD HAVE 2 DIFFERENT OUTCOMES HOW JURORS VIEW WHAT HAS TAKEN PLACE IF BELIEVE JUSTIFIABLE OR EXCUSABLE HOMICIDE THEN END OF STORY BUT IF JURORS CONCLUDE THERE WAS NOT ENOUGH PROOF AGAIN HYPOTHETICALLY NOT ENOUGH PROVED IN ORDER TO CONCLUDE THAT THERE WAS NO JUSTIFIABLE OR EXCUSABLE HOMICIDE THEN STATE CAN COME BACK FOR NOT GUILTY FOR 2 ND DEGREE AS WELL AS JUSTIFIABLE HOMICIDE ARE YOU UNDERSTANDING
	IR	THAT LAST PART I'M SORRY

	J	<p>IF THE JURORS CONCLUDE THAT THE STATE DID NOT DISPROVE JUSTIFIABLE HOMICIDE OR EXCUSABLE HOMICIDE THEN THE JURORS COULD COME BACK WITH NOT GUILTY ON 2ND DEGREE MURDER SIMILARLY WITH INVOLUNTARY MANSLAUGHTER THOSE PRINCIPALS, LOGICAL DISCONNECT AS INSTRUCTION GIVEN CONCERNING INVOLUNTARY MANSLAUGHTER, DON'T THINK THIS JURY INSTRUCTION WAS COMPOSED THAT THESE FACTS WERE PRESENT, CREATES CONTRADICTION IF MR ANDERSON HAD RIGHT TO USE DEADLY FORCE, JUSTIFIABLE HOMICIDE OR EXCUSABLE BUT THEN IS ACQUITTED OF THOSE 2, THEN INCONSISTENT OF INVOLUNTARY MANSLAUGHTER HAVING JUSTIFIABLY COMMITTED A HOMICIDE THAT LEAVES A DIFFICULTY IN TERMS OF ANALYSIS AND INSTRUCTION THE INVOLUNTARY MANSLAUGHTER INSTRUCTION AS APPROVED DOES NOT SPEAK TO ISSUE OF JUSTIFIABLE HOMICIDE OR EXCUSABLE HOMICIDE, SO THAT LEAVE CONUNDRUM I FACE DO WE ADDRESS AND INSTRUCT JURORS ALTHOUGH DEFENDANT HAS NO BURDEN OF PROOF IN ANY MANNER BUT FIND IF COMMITTED WITH JUSTIFICATION OR EXCUSE, SIGN VERDICT FORM AND WALK AWAY OR DO WE CONTINUE ON ARE DEFENSES TO EACH AND EVERY LESSER INCLUDED OFFENSE PRESENT THIS TO YOU BECAUSE THESE ARE THE DIFFICULTIES WE FACE WITH REGARD TO INSTRUCTION OF THE JURY IN THE OLD DAYS THE ISSUE OF JUSTIFIABLE HOMICIDE WERE AFFIRMATIVE DEFENSES, BURDEN ON DEFENDANT IN MODERN AGE WE HAVE MUCH MORE DIFFICULTY IN INSTRUCTION UNDER THESE INSTRUCTIONS LAW HAS CHANGED, INSTRUCTIONS HAVE NOT CHANGED AS RELATES TO INVOLUNTARY MANSLAUGHTER AND MISDEMEANORS GO THRU JURY INSTRUCTIONS I HAVE AT THIS POINT GIVE SOME THOUGHT AS TO HOW TO CHANGE; MODIFY IF YOU FEEL IT IS NECESSARY OR COULD BE STATED IN BETTER MANNER AS TO THE SPECIFICS MS ROBERTSON WITH REGARD TO THE DEFENSES COMBINED 2, IN INSTRUCTION NUMBER 26 INTO 1; SEPARATE INSTRUCTION SETS FORTH IN MORE DETAIL NOW LABELED INSTRUCTION 27 PURPOSES OF OUR DISCUSSION MAKE SURE RECORD CLEAR INSTRUCTION NUMBERS THAT ARE TEMPORARY; MAY RESULT IN THESE BEING RENUMBERED AT A LATER TIME</p>
320	J	<p>BEGINS READING INSTRUCTION NOW LABELED 26 INSTRUCTION 27 BEGINS ... IN TERMS OF SUBSTANTIVE LAW, AND AS IT RELATES TO POTENTIAL MISDEMEANORS WE'RE LOOKING AT INSTRUCTION 30 AS BREAKING POINT, INSTRUCTION 31 STOCK INSTRUCTIONS FROM THERE ON TAKE AS MUCH TIME AS YOU NEED IN RECESS</p>
322		OFF
406	J	<p>WHAT I'D LIKE TO DO AT THIS POINT TALK ABOUT INSTRUCTIONS GENERALLY AND ISSUES RAISED EARLIER THEN AFTER THAT DISCUSSION GO THRU THE INSTRUCTIONS INDIVIDUALLY OR IF YOU HAVE SUGGESTIONS HOW TO DEAL WITH CONUNDRUM I'M OPEN TO OPTIONS AVAILABLE MR MARSHALL</p>
	LM	NOT ASKING FOR ANY LESSER INCLUDED
	IR	<p>INSTRUCTION 15 CONCERN THIS ONE WOULD CREATE CONFUSION FOR THE JURY. HOWEVER, IN CONJUNCTION WITH 29A NUMBER 15 FITS VERY NICELY, ASK THAT COURT PLACE 15 CLOSE TO 29A I GUESS ONE OF THE QUESTIONS I HAVE SIR REGARDING THEN WITH BOTH 27 AND 29A IT SAYS MUST FIND NOT GUILTY BUT DOESN'T SAY NOT GUILTY OF WHAT OR DOES IT MEAN NOT GUILTY OF MURDER 2 BUT</p>

		GUILTY OF JUSTIFIABLE OR EXCUSABLE MAKES MORE SENSE IF GUILTY OF JUSTIFIABLE THEN THERE IS A REMEDY UNDER TITLE 18
410	IR	IF JURY FINDS NOT GUILTY OF MURDER 2 SEE INVOLUNTARY DOESN'T FIT THEN GO TO JUSTIFIABLE OR EXCUSABLE; HOWEVER IT COULD BE CONFUSING TO JURY WITH EXCUSABLE AND JUSTIFIABLE TO OFFER THEM AS APPROPRIATE RESPONSE A NOT GUILTY IF HE IS GUILTY OF EXCUSABLE OR JUSTIFIABLE THEN IN FACT THE HOMICIDE WAS JUSTIFIED
	J	THAT'S WHERE YOU LOST ME IF HOMICIDE COMMITTED WITH EITHER JUSTIFIABLE OR EXCUSABLE THEN CONFUSION IS WHAT
	IR	IF FOUND
	J	WHERE'S CONFUSION WITH JURY
	IR	WHAT IS IT GOING TO MEAN TO JURY I SEE WHAT YOU'VE WRITTEN REASONABLE DOUBT WHETHER JUSTIFIED MUST FIND HIM NOT GUILTY OF THE
	J	OF THE STATUTORY OFFENSE
	IR	ISSUE IS IF THERE IS A REASONABLE DOUBT THEY MUST FIND HIM GUILTY JURY
	J	YOU LOST ME THERE REASONABLE DOUBT AS TO ANY ELEMENT NOT GOING TO BE GUILTY OF ANYTHING
	IR	CLEAR ENOUGH FOR JURY REASONABLE DOUBT, GUILTY IS AN OUTCOME ON JUSTIFIABLE
	J	INSTRUCTION NUMBER 27 – JUSTIFIABLE SELF DEFENSE THAT STATES BURDEN ON STATE WAS NOT JUSTIFIABLE, REASONABLE DOUBT REASONABLY, MUST FIND NOT GUILTY SIMILARLY ON 26 THE LAST PARAGRAPH SAYS THE SAME THING AND 29A THINK THE SAME PARAGRAPH IS THEN REPEATED; EXCUSABLE 18- 4012 CONFUSION WOULD RESULT FROM WHAT
	IR	HOW THE JURY GOING TO PERCEIVE THE BURDEN OF PROOF ON THE PROSECUTION BECAUSE THE THE CONUNDRUM IS PRETTY DEEP SIR TRYING TO THINK OF ANOTHER WAY TO STATE IT
414	J	TREAT THIS AS FREE WHEELING DISCUSSION THAN AS A POSITION THAT I AM TAKING ONE OF THE WAYS TO DEAL WITH ISSUE IS LOOK AT GLOBAL SITUATION; GAVE JURORS INSTRUCTION STATE DOES NOT PROVE BEYOND REASONABLE DOUBT THAT THE DEATH NOT JUSTIFIABLE OR EXCUSABLE THEN MUST ACQUIT ON ALL CHARGES; PROBLEM WITH THAT IS DOUBLE NEGATIVE WHICH CAN CREATE CONFUSION
	IR	UNDERSTAND THAT, USING THE ACQUITTAL; TO ACQUIT HIM OF OTHER CHARGES, WORKED IN WITH EACH ONE OF THE JURY INSTRUCTIONS – HELPFUL FOR JURY
	J	LET ME SEE IF I CAN DISTILL TO ESSENCE – PUT THIS OUT TO SEE IF DISAGREEMENT DO WE ALL AGREE THAT IF THE HOMICIDE WAS JUSTIFIABLE OR EXCUSABLE THERE WOULD BE ACQUITTAL ON ALL COUNTS
	IR	YES
	LM	AGREE IF NOT TALKING ABOUT MISDEMEANORS NO REASON TO GO BEYOND THAT POTENTIAL HOMICIDE WAS JUSTIFIABLE BUT DEFENDANT COULD STILL BE GUILTY IF FINDS SELF DEFENSE OR JUSTIFIABLE HE SHOULD WALK; NOT GO BEYOND MANSLAUGHTER
418	J	IF THEY ARE TRULY INCLUDED OFFENSES THEN IN ORDER TO HAVE JUSTIFIABLE HOMICIDE OR FOCUS ON THAT; THEN NECESSARY FOR HIM TO

		<p>DISPLAY THE WEAPON, LEADS THEN TO ANOTHER DIFFICULTY THINK I UNDERSTAND POSITIONS OF BOTH PARTIES PROSECUTION BETTER TO HAVE JURORS AND INCREASE CHANCES IF ONLY 3 CHOICES FROM DEFENSE STANDPOINT, IF CONVICTION WOULD LIKE TO HAVE AS MANY CHOICES AS POSSIBLE, INCLUDING MISDEMEANORS AT THIS POINT FOCUS BACK ON CONCEPTS INVOLVED</p>
419	J	<p>MISDEMEANORS SOUGHT/PROPOSED WOULD BE DISTURBING THE PEACE DEFENDANT'S INSTRUCTION NUMBER 3 AND INSTRUCTION NUMBER 10 EXHIBITION INSTRUCTION NUMBER 11 AIMING FIREARMS</p>
423	J	<p>REFOCUS OUR DISCUSSION IN AGREEMENT STATE PROVES BEYOND REASONABLE DOUBT ELVIN HOLT'S DEATH NOT JUSTIFIABLE AND ALL OTHER MATERIAL ELEMENTS PROVEN EITHER 2ND, VOLUNTARY OR INVOLUNTARY CONCEPTUALLY</p>
424	IR	I'M MISSING SOMETHING
	J	<p>LET'S SAY JURORS CONCLUDE PROSECUTION HAS DISPROVED THE DEFENSES BEYOND REASONABLE DOUBT PRACTICAL AND CONCEPTUAL STANDPOINT AS RELATES TO ON OR ABOUT ... ALL THOSE JUST FOR US TO SPEAK CONCEPTUALLY JURORS CONCLUDE HAVE BEEN PROVEN MALICE AFORETHOUGHT OR NOT, PUTS US DOWN TO 2ND DEGREE OR VOLUNTARY MANSLAUGHTER THEN NEXT CHOICE WOULD BE INVOLUNTARY MANSLAUGHTER LEAVE US WITH THOSE 3 IF THE STATE HAS DISPROVED THE DEFENSES IF THE STATE DISPROVES THOSE DEFENSES MISDEMEANORS DON'T COME INTO PLAY IN AGREEMENT</p>
	LM	YES FROM STATE
425	IR	<p>IN LOOKING YES I WOULD AGREE</p>
426	J	<p>ALRIGHT, NOW SIMPLIFY EVEN MORE IF STATE DOES NOT PROVE BEYOND REASONABLE DOUBT JUSTIFIABLE HOMICIDE OR EXCUSABLE HOMICIDE IT APPEARS TO ME THERE WOULD BE AN ACQUITTAL ON ALL CHARGES</p>
	LM	RIGHT
	IR	YES SIR
	J	<p>TO HELP JURORS GO THRU THIS COMPLEX SET UP OF MULTIPLE INSTRUCT JURORS IF STATE PROVES BEYOND REASONABLE DOUBT THAT ELVIN J HOLT'S DEATH WAS NOT JUSTIFIABLE OR EXCUSABLE HOMICIDE AND FURTHER PROVES THE ELEMENTS AS SET FORTH THEN THEY HAVE CHOICE OF 2ND, VOLUNTARY, INVOLUNTARY ASSIST JURORS TO GIVE THAT CHOICE</p>
	LM	<p>GIVE ELEMENTS IN INSTRUCTION 19 IT GIVES IT TO THEM</p>
	J	<p>I THINK YOU'RE RIGHT MAKING THIS MORE COMPLICATED THAT IT NEEDS TO BE OR MAYBE I AM</p>
428	J	22 IS SIMILARLY SELF EXPLANATORY
429	J	<p>ONLY OTHER ISSUE IS INVOLUNTARY MANSLAUGHTER AND TO CORRECT WHAT APPEARS TO ME TO BE THE ISSUE IF STATE FAILS TO DISPROVE JUSTIFIABLE HOMICIDE AND EXCUSABLE HOMICIDE THEN NOT GUILTY VERDICT WOULD BE REQUIRED UNDER THOSE CIRCUMSTANCES ALSO IF WE DO THAT WE'LL HAVE THE MISDEMEANORS AND PROBLEM SOLVED</p>
430	IR	INVOLUNTARY MANSLAUGHTER?
	J	YES

		THE STATE MUST DISPROVE UNDER OUR PRESENT LAW THAT THE KILLING WAS NOT JUSTIFIABLE AND NOT EXCUSABLE IF THE STATE FAILS IN THAT REGARD THEN THE HOMICIDE WOULD BE JUSTIFIABLE OR EXCUSABLE IF JUSTIFIABLE OR EXCUSABLE NOT INVOLUNTARY MANSLAUGHTER THOUGHT THEN TO ADD THE SAME LANGUAGE WE HAVE AS RELATES TO THE MURDER AND VOLUNTARY MANSLAUGHTER TO THE INVOLUNTARY MANSLAUGHTER DOES THAT MAKE SENSE
	IR	YES
	LM	YES
	J	THEN WE CAN GO WITH EXHIBITION, AIMING FIREARMS, AND DISTURBING THE PEACE MR MARSHALL'S POINT LOGICAL INTERSECT UNLESS DISPROVING OF JUSTIFIABLE AND EXCUSABLE HOMICIDE, CAN THERE BE DISTURBING THE PEACE, EXHIBITION OR AIMING FIREARM SEEMS TO ME EXHIBITION PART OF JUSTIFIABLE OR EXCUSABLE; SAME WITH AIMING DISTURBING THE PEACE DO WE HAVE ANY TESTIMONY OUTSIDE USE OF FIREARM THAT MR ANDERSON RAISED HIS VOICE, WAS QUARRELSOME, ETC
	IR	NO
	LM	I DON'T THINK THERE IS ANY
	J	UNFAMILIAR WITH LAW LIKE TO HAVE CONSISTENCE FOR EASE OF UNDERSTANDING CARRY SAME FORMAT THRU EACH MISDEMEANOR ADD PARAGRAPH IF STATE SUCH AS MURDER IN 2 ND DEGREE INSTRUCTION, PARAGRAPH 4
435	J	OR ADD IF REASONABLE DOUBT WHETHER IT WAS MUST FIND NOT GUILTY MS ROBERTSON YOU'LL HAVE YOUR EXHIBITION, FIREARMS, AND DISTURBING THE PEACE
436	J	MR MARSHALL
	LM	MAKES SENSE, DISAGREE OVERLY CONFUSING
	J	LET ME GO THRU WHAT WAS MY LOGIC IN TERMS OF LESSER INCLUDES IN COMMISSION OF THIS OFFENSE, IF IT WAS AN OFFENSE, THERE WOULD HAVE TO BE SHOW OF EXHIBITING, POINTING, AIMING, DISCHARGE OF WEAPON ALL OF WHICH COULD CONSTITUTE DISTURBING THE PEACE, ETC. ALL WOULD BE LESSER INCLUDED IF FACTS JUSTIFY INCLUSION OF LESSER INCLUDED I'M BOUND TO GIVE LESSER INCLUDED INSTRUCTION BUT IF MISUNDERSTAND MY OBLIGATION/ROLE I'M WILLING TO BE EDUCATED IF YOU HAVE CASE THAT SAYS JUDGE YOU DON'T HAVE TO I'D LIKE TO HEAR IT
439	J	LET'S GO SPECIFICS WHAT HAS BEEN MARKED AS INSTRUCTION NUMBER 10 OBJECTION YOU HAVE NOW HEARD ALL EVIDENCE
	LM	NO
	IR	NO
	J	INSTRUCTION 11
	BOTH	NO OBJECTION
	J	12 CHARGING INSTRUCTION
	IR	NO OBJECTION
	LM	LINE 44 CALIBER HANDGUN; SHOULD BE (POINT) .44 CALIBER HANDGUN
	J	LEAVE IT AS IT IS, INFORMATION STATES 44 CALIBER HANDGUN
441	J	IF THERE ARE TYPOGRAPHICAL ERRORS PLEASE ALERT ME

		OBJECTION TO 12
	LM	NO
	J	13
	BOTH	NO OBJECTION
	J	14
	BOTH	NO
	J	15
	LM	NO
	IR	NO OBJECTION OTHER THAN PLACEMENT
	J	YOU WANT IT PLACED BY
	IR	CLOSE TO 29A OR 26
	J	HOW ABOUT AFTER 29A
	IR	I WOULD BE SATISFIED
	J	THAT IS INSTRUCTIONS ALL PERSONS ARE CAPABLE MR MARSHALL
	LM	NO PROBLEM
443	J	16
	BOTH	NO
	J	17
	IR	NO OBJECTION
	LM	NOT QUITE SURE TRANSITION INSTRUCTION LATER ON WOULD BE SUFFICIENT TO ADDRESS THIS ISSUE
	J	SOME WAYS LIKE INOCULATION, ALERTED MORE COMING I HAVE FOUND LISTENING OR READING OFTEN TIMES HELPFUL TO HAVE IDEA WHAT'S COMING AT END TO PUT IN CONTEXT NOT ABSOLUTELY NECESSARY; SOMETHING I THOUGH MIGHT BE HELPFUL, NOT PADDED JURY INSTRUCTION HELP JURORS UNDERSTAND INSTRUCTION 17 BEGINS IN THIS CASE IS NOT CHARGED WITH ANY OFFENSE EXCEPT 2 ND DEGREE THAT INCLUDES
	J	WILL NOT INCLUDE IT
	IR	DEFENSE WOULD LIKE IT BUT LEAVE TO DISCRETION
	J	NOT REQUIRED; BECOMES SELF EXPLANATORY LATER ON SOMETIMES HAVING MORE CAN RESULT IN MORE CONFUSION IN LIGHT OF PROSECUTION'S OBJECTION NOT GOING TO INCLUDE 17 18
	BOTH	NO OBJECTION
	J	19
	BOTH	NO
	J	20
	BOTH	NO
	J	21
	IR	NO
	LM	I'M NOT ASKING FOR ANY LESSER INCLUDED
	J	22
	BOTH	NO
	J	23
	IR	NO OBJECTION
	LM	NO OBJECTION
	J	24
	BOTH	NO
	J	25
	BOTH	NO
	J	WHAT I AM GOING TO DO IS ADD ADDITIONAL LANGUAGE AS MENTIONED EARLIER
448	J	THIS IS INSTRUCTION ON INVOLUNTARY MANSLAUGHTER

	J	INSTRUCTION 26
	LM	OBJECTION TO 26 REALIZE THIS IS STATUTORY LANGUAGE MY PROBLEM SELF DEFENSE AS UNDERSTANDING BY JURY WHAT IS A FELONY – THEY DON'T KNOW FEEL THIS IS A BIG PROBLEM; THIS IS STOCK LANGUAGE
450	J	MS ROBERTSON
	IR	DON'T SEE IT AS CONFUSING AS PROSECUTOR DOES; READS FROM LANGUAGE IN ESSENCE, WHETHER OR NOT JURY UNDERSTANDS FELONY IS IMMATERIAL; LEAVE TO DISCRETION OF THE COURT
	J	DO WE WANT TO DEFINE A FELONY
	IR	I WOULD RATHER NOT GETS INTO FELONY, WONDERING WHAT IS ADDITIONALLY PUNISHMENT WOULD BECOME PART OF DELIBERATION
	J	I'LL GET <i>BLACKS</i>
453	J	DEFINITION OF FELONY FROM <i>BLACKS LAW DICTIONARY</i>
	LM	AS MATTER OF LAW I DON'T THINK ANY EVIDENCE SUPPORT DESIGN TO COMMIT A FELONY
	IR	WILL NOT COMMENT ON EVIDENCE DESIGN TO COMMIT FELONY DEFENSE NOT OBJECT TO REDACTING "TO COMMIT A FELONY" FROM THE JURY INSTRUCTION
455	J	AS RELATES TO VERBIAGE, IT IS VERBIAGE OF STATUTE 15-14 INSTRUCTION I THINK JURORS CAN UNDERSTAND THE GENERAL NATURE AND AS A MATTER OF COMMON PARLANCE, FELONIES MORE SERIOUS THAN MISDEMEANORS AND I AM GOING TO LEAVE IT IN OTHER OBJECTIONS REGARD TO 26
	LM	NO
	J	27
	BOTH	NO
	J	INSTRUCTION SAYS JUSTIFIABLE HOMICIDE .. 28
	BOTH	NO
	J	29
	BOTH	NO
	J	29A
	LM	OBJECTION 18-4012 2 IS KINDA NO OBJECTION IF ENTIRE SUBSECTION IN INSTRUCTION FIRST PHRASE OBJECTION REASON IT TALKS HOMICIDE IS EXCUSABLE READS FROM STATUTE IT IS CONFUSING DRY STATUTE ASK GIVE ENTIRE SUBSECTION 2 IN ITS ENTIRETY
459	IR	BELIEVE CONFUSING TO ADD ADDITIONAL LANGUAGE READS LANGUAGE THAT SUDDEN COMBAT WOULD BE CONFUSING NO ADVANTAGE CONFUSING DIVIDED IN CONJUNCTION WITH PREVIOUS NUMBER 15
	J	IMMEDIATELY AFTER THIS
	IR	CONFUSING TO HAVE AMENDED
500	J	REASON DID NOT INCLUDE THE WORDS OF 18-401 SUB 2 WHERE IT STATES UPON SUDDEN COMBAT ... READS FROM STATUTE IS BECAUSE OF THE USE OF DISJUNCTIVE AND DOES NOT APPEAR THERE WAS A SUDDEN COMBAT MR MARSHALL
	LM	OTHER INSTRUCTION 1508 ADEQUATELY STATES WHAT MISTAKE OR ACCIDENT 2 ND ISSUE, SEE DISJUNCTIVE, BUT THERE IS AN AND, WHETHER APPLIES

		FIRST PART OF IT OR THE 2 ND PART OR BOTH ARGUABLE IT'S BOTH DO THINK THIS IS CONFUSING 1508 ADEQUATELY ADDRESSES IT
503	IR	IN LOOKING AT 1508 DOES NOT CONVEY NEARLY THE ESSENCE OF 29A ALSO EXPRESSES REASONABLE DOUBT STATE MUST PROVE NOR DOES IT EXPRESS EXCUSABLE DON'T BELIEVE INSTRUCTION 15 IS A DUPLICATION OF 29A IT PROVIDES ADDITIONAL INFORMATION BUT NOT DUPLICATIVE ANALYSIS OF STATUTORY LANGUAGE, IF THE KILLING NOT DONE IN CRUEL OR UNUSUAL MANNER APPLY TO ENTIRE SUBSECTION IT WOULD BE GRAMMATICALLY CHANGED DIFFERENT BECAUSE IT DEFINITELY COMES AFTER THE OR AND REQUIRES THE ADDITIONAL
505	J	NOTE PROBLEM BECAUSE THE STATUTE SAYS UPON ANY SUDDEN AND SUFFICIENT PROVOCATION, AND THAT IS NOT IN THE INSTRUCTION
506	IR	SUBMIT SINCE THE OR IS IN THERE IT IS TO BE READ ... OR ... OR ... OR IT IS NOT AN INCLUSIVE RULE
507	J	MR MARSHALL
	LM	THE BURDEN, JURY INSTRUCTIONS LOOKED AT IN TOTALITY BURDEN IN INSTRUCTIONS REAL PROBLEM, DANGEROUS INSTRUCTION DOESN'T EXPLAIN LAW IN ITS ENTIRETY CULPABLE MY BURDEN TO PROVE NOT JUSTIFIABLE AND WHAT IS LEGAL JUSTIFICATION THAT DOESN'T RESULT IN CRIMINAL CULPABILITY
509	J	LET ME GIVE IT SOME MORE THOUGHT
510	J	TAKE UP AGAIN TOMORROW AT 9 AM
	IR	NO OBJECTION TO 30
	LM	NO
	J	OTHER INSTRUCTIONS
	BOTH	NO OBJECTIONS
	LM	HAVE SOME CASES NOT ALLOWING LESSER INCLUDED OTHER CASE DEFENSE REQUESTED JURY INSTRUCTION
	J	TOMORROW MORNING AT 9; SHOULD HAVE FULL SET MAKE OBJECTIONS AND ARGUMENTS; SHOULD HAVE ENOUGH TIME TO BE READY TO GO BY 10
511		END

State of IDAHO
Bonner County Sheriff's Office
Civil Division
4001 N. Boyer Ave.
Sandpoint, ID 83864

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT
2009 OCT 20 P 1:44

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Defendant Disposition:
James Mathew Anderson
468000 Highway 95; #60; P Sagle, ID 83860

Witness Disposition: PER Personal Service
Tracey Dawn Hubbard
468800 HWY 95 #60 Sandpoint, ID 83864
Served on: 8th day of October, 2009 by Peasha, J
Served to: Tracy Hubbard ()
468800 HWY 95 #60 Sandpoint, ID 83864

Plaintiff Disposition:
State of Idaho

Process Number: C09-01716

08
Court Number: C09-7529

I, Daryl D Wheeler, Sheriff of Bonner County Sheriff's Office do hereby certify that I received the foregoing Criminal Subpoena on the 7th day of October, 2009.

Dated the 15th day of October, 2009

Fees:

Service:	0.00
Mileage:	0.00
Other :	0.00
Total :	0.00

Daryl D Wheeler, Sheriff
Bonner County Sheriff's Office, IDAHO

BY: Glenn Moore
Authorized Representative
Civil Division

Comments

2009 OCT 6 PM 3:53

BONNER COUNTY PROSECUTING ATTORNEY

127 S. First Avenue
Sandpoint, ID 83864
(208) 263-6714
Fax: (208) 263-6726

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2008-7529
vs.)	
	)	SUBPOENA
JAMES M. ANDERSON,	)	Incident No. 08-019839
DOB: [REDACTED])	
)	
Defendant.)	

THE STATE OF IDAHO TO:	TRACEY HUBBARD
	468800 Hwy. 95, Space #60
PHONE: 208-265-8254	DOB: [REDACTED]

YOU ARE COMMANDED to appear before the above-entitled Court, Bonner County Courthouse, Sandpoint, Idaho, as a witness for the **STATE OF IDAHO** in the above matter. For a failure to attend, you will be deemed guilty of Contempt of Court.

DATE: **October 19 thru 22, 2009**
TIME: **9:00 a.m.**
Jury Trial

By Order of the Court.

Given under my hand and seal at Sandpoint, Idaho, this 6th of October, 2009.

PROSECUTOR'S OFFICE by: **LOUIS E. MARSHALL**
PROSECUTING ATTORNEY

NOTICE: You are being subpoenaed by the Prosecuting Attorney. Please contact this office at (208) 263-6714 between 4:00 P.M. and 5:00 P.M. **the day before** you are scheduled to attend so that you can be aware of the status of the case.

October 6, 2009-lmb

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SUSAN AYERLE
DIVISION: DISTRICT

CASE NO. CR-2008-7529
DATE: OCT 20 2009 TIME: 9:00 AM
CD: 09-255

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

**SUBJECT OF PROCEEDINGS
CHARGE**

JURY TRIAL - DAY 6

INDEX	SPEAKER	PHASE OF CASE
907	J	Calls Case
		Present: DEFENDANT WITH ISABELLA ROBERTSON; LOUIS MARSHALL FOR STATE
		{PASSES DOCUMENTS TO COUNSEL}
908	J	TAKE UP INITIALLY THE INSTRUCTION 18-4012 - EXCUSABLE HOMICIDE CITES FROM STATUTE GIVEN OUR DISCUSSION YESTERDAY ADDITIONAL THOUGHT; HAVE COME UP WITH THE INSTRUCTION WHICH INCORPORATES SUBSECTION 2 TO THE EXTENT THAT IT SEEMS APPROPRIATE DID SO IN SENSE WE HAVE POTENTIALLY CONFLICTING INSTRUCTIONS VOLUNTARY MANSLAUGHTER AND ONE 40-12 TO HAVE THIS STATUTE MAKE SENSE IN CONSIDERATION OF VOLUNTARY MANSLAUGHTER USES SIMILAR WORDS; ONLY MAKES SENSE IF THE FIRST THREE PHRASES ... CITES ... WHEN READ TOGETHER. THE BALANCE OF THE STATUTE IN SUB 2 HAS THE DISJUNCTIVE OR AND THEREFORE IT SEEMS TO ME IN COMMON SENSE INTERPRETATION OF STATUTE THAT THE BALANCE OF THAT SUBSECTION 2 RELATES TO OR UPON SUDDEN COMBAT. DISAGREE WITH DEFENSE'S POSITION TAKE, THAT ALL ARE TO BE TAKEN TOGETHER DISJUNCTIVE OR ... THIS STATUTE MAKES SENSE ONLY IF IT IS READ TOGETHER WHEN CONSIDERING VOLUNTARY MANSLAUGHTER INSTRUCTION EXCUSABLE HOMICIDE WOULD HAVE TO OCCUR WITH ANDS SO THAT IS HOW I PHRASED EXCUSABLE HOMICIDE INSTRUCTION NOT NECESSARILY FINAL DECISION; WISHED TO HAVE DISCUSSION MS ROBERTSON
	IR	APPRECIATE THE THOUGHTFULNESS THE COURT HAS PUT INTO INSTRUCTION; DISAGREE BUT SEE REASONING; HAVE NO OBJECTION
	LM	SAME OBJECTION AS YESTERDAY; NOTHING MORE TO ADD
	J	WILL GIVE THIS INSTRUCTION AS PRESENTLY CONSISTS
913	J	NEXT INSTRUCTION BRING TO YOUR ATTENTION IS A NEW INSTRUCTION AND THIS GOES ALONG WITH DISCUSSION YESTERDAY WE ALL AGREED HOMICIDE IS JUSTIFIABLE OR EXCUSABLE THEN THERE WOULD BE NECESSARY QUIBBLE ON ALL LESSER INCLUDED CRIMES I TRIED TO FASHION AN INSTRUCTION WHICH DOES NOT USE DOUBLE NEGATIVES; ENDEAVORED TO DO SO BY FORMULATING THE FOLLOWING INSTRUCTION
914	J	BEGINS ... GOES ON TO STATE IF PROSECUTION HAS FAILED TO PROVE BEYOND REASONABLE DOUBT ...

		I THINK THAT WHEN READ IN CONJUNCTION WITH OTHER INSTRUCTIONS CLARIFIES FOR JURY HOW THE INSTRUCTIONS WORK TOGETHER MR MARSHALL
	LM	I DO OBJECT - PROPER RECITATION OF THE LAW MY OBJECTION STEMS FROM LOOK AT JURY INSTRUCTIONS IN TOTALITY THIS ISSUE ALREADY ADDRESSED THRU OTHER INSTRUCTIONS MY OBJECTION KEEPS GIVING MORE AND MORE INSTRUCTIONS TO TRY AND CLARIFY THESE ISSUES; IN CUMULATIVE COMMENTS ON THE EVIDENCE
916	J	MS ROBERTSON
	IR	WHEN FIRST SAW INSTRUCTION REACTION WAS TAKES CARE OF ISSUES PROSECUTION CONCERNED ABOUT YESTERDAY HOWEVER FIND HIM GUILTY ON MISDEMEANOR SEE AS NECESSARY INSTRUCTION INSTRUCTIONS WORK TOGETHER NOT COMPOUNDING SIGNIFICANT ISSUE ADDRESSED WAS HOW TO LOOK AT JURY INSTRUCTIONS AS A WHOLE; THEY ARE NOT PIECEMEAL; IF JURY MISSES THAT GREAT DEAL OF CONFUSION I SEE THIS AS CLEARING A LOT OF CONFUSION I SEE MR MARSHALL'S POINT; DON'T SEE IT AS A COMMENT ON THE EVIDENCE SUMMATION INSTRUCTION THAT WAS BADLY NEEDED WITH INSTRUCTIONS AS THEY WERE
919	J	APPRECIATIVE MR MARSHALL OF YOUR THOUGHT PROCESS AND YOUR COMMENTS WHETHER THIS WOULD BE COMMENT ON THE EVIDENCE I AM GOING TO GIVE THE INSTRUCTION AND I WANT TO SET FORTH REASONS WHY GOING TO GIVE. IN THE JUSTIFIABLE INSTRUCTION THE STATEMENT IS MADE AS TO WHETHER THE HOMICIDE WAS JUSTIFIABLE IN THE SELF DEFENSE OR DEFENSE OF OTHERS INSTRUCTION RELATES TO WHETHER HOMICIDE JUSTIFIABLE THE ISSUES ADDRESSED YESTERDAY I THINK ARE SOLVED BY THIS INSTRUCTION THAT IS IT TIES TOGETHER THE FACT THAT IF HOMICIDE WAS JUSTIFIABLE OR EXCUSABLE, OR PROSECUTION FAILED TO DISPROVE BEYOND REASONABLE DOUBT, THEN ALSO SERVES TO ACT AS SHIELD AS TO OTHER MISDEMEANORS AND CLARIFIES FOR JURY I RECOGNIZE THAT REASONABLE MINDS MAY DIFFER; SO BASED UPON THAT LOGIC AS EXPLAINED TODAY AND YESTERDAY I AM GOING TO INCLUDE IT; GOING TO INCLUDE IT IN THE ORDER OF THE 2 ND TO THE LAST INSTRUCTION BEFORE GO BACK TO STOCK INSTRUCTIONS INSTRUCTION THAT STATES YOU HAVE BEEN INSTRUCTED AS TO ALL RULES PLACES THIS INSTRUCTION RIGHT BEFORE THAT INSTRUCTION ADDITIONAL INSTRUCTIONS BEING PRINTED WITH REGARD TO THE MISDEMEANORS AND I'LL BRING THOSE OUT
923	J	FEW MINOR CHANGES WITH REGARD TO THESE INSTRUCTIONS IN THE JUSTIFIABLE INSTRUCTION IT BEGAN READING ... INSERTED ELVIN J HOLT TO PUT IN CONTEXT STOCK INSTRUCTION STATES BURDEN ON PROSECUTION, PUT BURDEN ON STATE; CHANGED TO PROSECUTION CHANGE IN SELF DEFENSE INSTRUCTION ADDED KILLING OF ELVIN J HOLT AND CHANGED WORD TO PROSECUTION I'LL BE BACK
924		OFF
957	J	GIVEN ADDITIONAL
	LM	SAME OBJECTION AS YESTERDAY TO THREE POTENTIAL MISDEMEANORS; IF HOMICIDE JUSTIFIABLE OR EXCUSABLE THEN ACTS DESCRIBED SHOULD BE LEGAL AND SHOULD NOT BE INCLUDED
	IR	NO OBJECTION

	J	GOING TO GIVE LESSER INCLUDED INSTRUCTIONS ANY OTHER CHANGES/SUGGESTIONS
	LM	NOT FROM STATE
	IR	NOT FROM DEFENSE
	J	ARE JURORS ALL HERE
	BAILIFF	YES SIR
958	J	PLEASE BRING IN THE JURY
959	J	GREETES JURY ALMOST AT END OF LONG ROAD; PROBLEMS WITH COPY MACHINE WE'RE ABOUT HALF WAY THRU COPYING COMPLIMENT BOTH LAWYERS FOR THEIR WORK AND DILIGENCE THROUGHOUT TRIAL; AND THEIR PROFESSIONALISM WE HAVE SPENT A GREAT DEAL OF TIME GOING OVER INSTRUCTIONS LET YOU KNOW WHAT IS GOING ON 10 OR 15 MINUTES; EXCUSE YOU BACK TO JURY ROOM ADMONISHES JURY
1001	J	SEE YOU IN A FEW MINUTES
1001	J	MR MARSHALL, HOW LONG YOU'LL BE TAKING
	LM	DEPENDS ON HOW STRONG VOICE KEEPS UP 45 MINUTES
	IR	HALF HOUR TO 45 MINUTES
1002	J	HAVE MR MARSHALL ARGUE TAKE 10 MINUTE BREAK THEN MS ROBERTSON THEN MR MARSHALL REBUTTAL REQUIRE IF YOU'RE HERE YOU STAY HERE DURING ARGUMENT DURING BREAK; THEN MAY LEAVE DURING BREAK DO NOT DISTURB ARGUMENT OR READING OF JURY INSTRUCTIONS
1002	LM	ON THE RECORD YOUR ORDER CAN'T SAY I BELIEVE
	J	ARGUE ANY EVIDENCE PRESENTED OR INFERRED ISSUE NOT TO TESTIFY AS TO WHAT YOU BELIEVE IS THE TRUTH
1004	J	RECORDING OF JURY INSTRUCTIONS; WRITTEN RECORD SERVE AS RECORD
	IR	PREFER SHE NOT TAKE THEM DOWN
	LM	NO
1004		OFF
1029	J	PLEASE BRING IN THE JURY
1030	J	THANK YOU FOR PATIENCE HAVE BOOKLET WITH ALL JURY INSTRUCTIONS INCLUDES ONES GIVEN AT BEGINNING OF TRIAL CAN READ ALONG BUT AS MATTER OF LAW MUST READ THEM TO YOU SOME HAVE LANGUAGE THAT IS SOMEWHAT ANTIQUATED SOME OF THESE INSTRUCTIONS ARE REQUIRED TO DO BASED UPON LAWS ENACTED A LONG TIME AGO HAVE GIVEN FIRST 9 INSTRUCTIONS BEGINNING WITH INSTRUCTION 10
1031	J	INSTRUCTION NUMBER 10
1034	J	CONTINUES READING JURY INSTRUCTIONS
1040	J	CONTINUES READING JURY INSTRUCTIONS
1045	J	CONTINUES READING JURY INSTRUCTIONS
1050	J	CONTINUES READING JURY INSTRUCTIONS
1055	J	CONTINUES READING JURY INSTRUCTIONS
1058	J	MS LARSON HAVE GIVEN YOU INSTRUCTIONS ORIGINAL INSTRUCTIONS CONTAINED IN THIS BOOK ORIGINALS; BLUE INK THE VERDICT IS IN ORIGINAL

	BOTH	READY
1059	LM	BEGINS CLOSING ARGUMENT - GETS EXHIBITS
1100	LM	STARTS SPEAKING; ELEMENTS
1105	LM	CONTINUES CLOSING ARGUMENT
1110	LM	CONTINUES CLOSING ARGUMENT
1115	LM	CONTINUES CLOSING ARGUMENT
1120	LM	CONTINUES CLOSING ARGUMENT
1125	LM	CONTINUES CLOSING ARGUMENT
1130	LM	CONTINUES CLOSING ARGUMENT
1135	LM	STATE'S EXHIBIT 9 BEGINS PLAYING
1140	LM	RESUMES CLOSING ARGUMENT
1145	LM	CONTINUES CLOSING ARGUMENT
1150	LM	CONTINUES CLOSING ARGUMENT
1151	LM	CONCLUDES CLOSING ARGUMENT
	J	TEN MINUTE BREAK ADMONISHES JURY
1152	J	RECESS; BE BACK AT 12:05
1152		OFF
1205	J	PLEASE BRING IN THE JURY
1206	IR	BEGINS CLOSING ARGUMENT
1210	IR	CONTINUES CLOSING ARGUMENT
1215	IR	CONTINUES CLOSING ARGUMENT
1220	IR	CONTINUES CLOSING ARGUMENT
1225	IR	CONTINUES CLOSING ARGUMENT
1230	IR	CONTINUES CLOSING ARGUMENT
1235	IR	CONTINUES CLOSING ARGUMENT
1237	IR	CONCLUDES CLOSING ARGUMENT
1238	LM	BEGINS FINAL CLOSING ARGUMENT
1240	LM	CONTINUES FINAL CLOSING ARGUMENT
1245	LM	CONTINUES FINAL CLOSING ARGUMENT
1247	LM	THANK YOU
	J	14 JURORS PICKED; TWO WEEK TRIAL HAVE TO PLAN FOR CONTINGENCIES;
	CLERK	ALTERNATE JURORS - #14 AND #5
1249	J	ADMONISHES ALTERNATES GIVE MR JOHNSON WAY TO BE CONTACTED - YOU'LL BE ON CALL
1249	CLERK	SWEARS BAILIFF
	J	EXCUSE JURORS 14 AND 5
1251	J	EXCUSE JURY TO JURY ROOM FREE TO NOW DELIBERATE
1252	J	CONGRATULATE ATTORNEY
1253	J	WE ARE IN RECESS
		MARK COURT'S 33 - JURY QUESTION
127	J	PLEASE BE SEATED AGAIN IN SESSION OUTSIDE PRESENCE OF JURY JURY HAS PRESENTED QUESTION MAY WE TAKE TIES OFF GUN IN ORDER TO TEST TRIGGER PULL INITIAL THOUGHT - NO DON'T WANT TO HAVE JURORS CONDUCT EXPERIMENTS WITHOUT SOME TYPE OF FOUNDATION/SUBSTANTIATION CONDITION OF WEAPON AS A YEAR AGO; HOW STORED; OILED; THINK WE ARE HEADING TOWARDS DANGEROUS GROUND FOR JURORS TO CONDUCT EXPERIMENT
	LM	IN AGREEMENT SEND BACK NO OR EXPLAIN CAN'T CONDUCT EXPERIMENTS
	IR	CONCUR WITH YOUR THOUGHTS THEY DON'T HAVE ABILITY HOW TO INTERPRET
	J	MAKE EXPLANATION OR JUST SAY NO

	IR	JUST SAY NO
	J	SAY NO, NOT ALLOWED TO CONDUCT EXPERIMENTS ON EVIDENCE THAT HAS BEEN ADMITTED
129	J	PLEASE BRING IN JURY
131	J	QUESTION ASKED OF ME ... ANSWER IS NO; MAY NOT CONDUCT EXPERIMENTS WITH EVIDENCE THAT HAS BEEN ADMITTED RETURN YOU TO THE JURY ROOM
132		OFF
503	J	BEFORE BRING IN JURY LET SPECTATORS KNOW WHAT WILL TAKE PLACE AFTER VERDICT READ, EXCUSE THOSE SEATED ON LEFT SIDE OF COURTROOM; THERE ARE OFFICERS IN COURTHOUSE AND OUTSIDE IF YOU WISH TO DISCUSS THINGS, DO SO AT A DIFFERENT PLACE AFTER A FEW MINUTES WILL RELEASE THOSE ON RIGHT SIDE OF COURTROOM ORDERING NO INTERACTION BETWEEN TWO SIDES AS RELATES TO THIS VERDICT PLEASE BRING IN THE JURY
505	J	PLEASE BE SEATED JUROR NUMBER 7 HOLDING DOCUMENTS; PRESUME YOU ARE PRESIDING HAND VERDICT TO MR JOHNSON
505		GUILTY VERDICT READ
506	J	EXCUSE THOSE ON RIGHT SIDE OF COURTROOM
506	J	THANKS JURORS FOR SERVICE YOU CAN TALK TO ANYONE NOW CASE IS COMPLETED FINE FOR YOU TO TALK TO LAWYERS DO NOT HAVE TO BUT CAN IF YOU SO CHOOSE IF YOU DO TALK, TALK ABOUT YOUR FEELINGS, YOUR THOUGHTS, NOT SOMEONE ELSE'S IN JURY ROOM EXCUSE YOU TO JURY ROOM HAVE YOU WAIT FOR A FEW MINUTES
508	J	YOU ARE EXCUSED
	IR	I WOULD LIKE THE JURORS POLLED PLEASE
	J	AT THIS TIME THERE HAS BEEN A REQUEST YOU BE POLLED GOING TO ASK EACH INDIVIDUAL JUROR WAS YOUR INDIVIDUAL VERDICT 49
	49	YES
	J	4
	4	YES
	J	7
	7	YES
	J	8
	8	YES
	J	42
	42	YES
	J	11
	11	YES
	J	15
	15	YES
	J	20
	20	YES
	J	27
	27	YES
	J	48
	48	YES
	J	39
	39	YES

	J	40
	40	YES
509	J	THANK YOU, YOU MAY GO TO JURY ROOM
510	J	ORDER PSI REPORT COMPLETED DATE FOR SENTENCING I WILL SET A DATE COUNSEL DO YOU ANTICIPATE ABOUT 2 MONTHS
	LM	SUFFICIENT FOR STATE
	IR	YES
	J	AT THIS TIME MR ANDERSON REMAND YOU BACK TO BCSO SET SENTENCING DATE IN ABOUT 2 MONTHS WILL LET BOTH COUNSEL KNOW AND GIVE YOU A NOTICE OF HEARING YOU ARE EXCUSED MR JOHNSON, BALANCE OF AUDIENCE IF ALL RIGHT CAN BE EXCUSED
511		END

☒ ADULT

☐ JUVENILE

STATE OF IDAHO
County of Bonner
FILED 10-20-09
AT 5:11 O'Clock P M
CLERK, DISTRICT COURT
Deputy *cm*

JAIL INFORMATION FOR BONNER COUNTY SHERIFF'S OFFICE

JUDGE: *Vealby*

CASE NO. *CR08 - 7529*

(SUBJECT'S FIRST NAME)

(SUBJECT'S MIDDLE NAME)

(SUBJECT'S LAST NAME)

☒ SUBJECT APPEARED IN COURT ON: *10-20-09* AT *510* P M

- ☐ SUBJECT IS TO: ☐ BE OR'D ☒ REMAIN IN CUSTODY
☐ BE RELEASED BY JUDGES ORDER
☐ BE RELEASED/TIME SERVED ☐ BOND \$
☐ BE RELEASED TO PARENT/PTA
☐ MUST SIGN WAIVER OF EXTRADITION ☐ WORK RELEASE/SEARCH GRANT
☐ AUTHORIZATION TO TRANSFER TO REGION ONE JUVENILE DETENTION CENTER GRANTED, IF NECESSARY.

- ☐ SENTENCED TO: ☐ DAYS IMPOSED ☐ HOURS ON SHERIFF'S LABOR PROGRAM.
☐ DAYS SUSPENDED ☐ SIGN UP WITHIN SEVEN (7) DAYS FROM TODAY
☐ DAYS TO SERVE AT SHERIFF'S OFFICE AND COMPLETE BY:
☐ DAYS CREDIT _____, 20____.

- ☐ SUBJECT TO REPORT TO THE BONNER COUNTY JAIL ON: _____ AT _____ M
☐ BREATH OR U/A TEST ORDERED _____ X'S WEEKLY ON: _____ AT _____ M
☐ SUBJECT PLACED IN THE CUSTODY OF THE DEPT. OF HEALTH & WELFARE NOT TO EXCEED _____ YEAR (S).

- ☐ SUBJECT SENTENCED TO SERVE NOT LESS THAN _____ AND NOT MORE THAN _____
IN THE IDAHO STATE DEPT. OF CORRECTIONS.
☐ THIS SENTENCE IS SUSPENDED. ☐ PLACED ON _____ YEARS PROBATION.
☐ SUBJECT TO BE PLACED IN THE RETAINED JURISDICTION PROGRAM FOR NOT MORE THAN 180 DAYS.
☐ AS CONDITION OF PROBATION, SUBJECT TO SERVE _____ DAYS LOCAL JAIL.

CHARGES *MURDER II*

VERDICT - GUILTY OF MURDER II

JUDGE'S ORDER: SUBJECT IS TO *REMAIN IN CUSTODY*
SENTENCING DATE TO BE SET BY COURT.

☐ JUDGE'S ORDER WILL FOLLOW

☐ PUBLIC DEFENDER OFFICE APPOINTED

JUDGE'S SIGNATURE (if needed)

BAILIFF

STATE OF IDAHO } ss
County of Bonner
FILED 10-20-09
AT 5:05 O'CLOCK P M
CLERK, DISTRICT COURT
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-2008-0007529
)	
v.	)	VERDICT
)	
JAMES M. ANDERSON)	
)	
Defendant.)	
_____)	

We, the Jury, for our verdict, unanimously answer the question(s) submitted to us
as follows:

QUESTION NO. 1: Is JAMES M. ANDERSON guilty or not guilty of
MURDER OF THE SECOND DEGREE?

Not Guilty _____ Guilty ✓

*If you unanimously answered Question No. 1 "Guilty," then you should simply
sign the verdict form and advise the bailiff. If you unanimously answered Question No. 1
"Not Guilty," then proceed to answer Question No. 2.*

QUESTION NO. 2: Is JAMES M. ANDERSON guilty or not guilty of
VOLUNTARY MANSLAUGHTER?

Not Guilty _____ Guilty _____

*If you unanimously answered Question No. 2 "Guilty," then you should simply
sign the verdict form and advise the bailiff. If you unanimously answered Question No. 2
"Not Guilty," then proceed to answer Question No. 3.*

QUESTION NO. 3: Is JAMES M. ANDERSON guilty or not guilty of
INVOLUNTARY MANSLAUGHTER BY NEGLIGENT USE OF A DEADLY
WEAPON?

Not Guilty _____ Guilty _____

*If you unanimously answered Question No. 3 "Guilty," then you should simply
sign the verdict form and advise the bailiff. If you unanimously answered Question No. 3
"Not Guilty," then proceed to answer Question No. 4.*

QUESTION NO. 4: Is JAMES M. ANDERSON guilty or not guilty of
EXHIBITION OR USE OF A DEADLY WEAPON?

Not Guilty _____ Guilty _____

*If you unanimously answered Question No. 4 "Guilty," then you should simply
sign the verdict form and advise the bailiff. If you unanimously answered Question No. 4
"Not Guilty," then proceed to answer Question No. 5.*

QUESTION NO. 5: Is JAMES M. ANDERSON guilty or not guilty of AIMING
FIREARMS AT OTHERS?

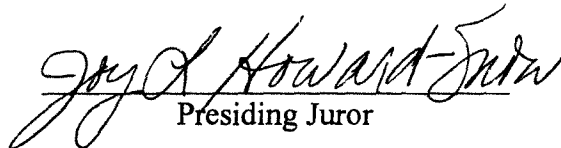
Not Guilty _____ Guilty _____

*If you unanimously answered Question No. 5 "Guilty," then you should simply
sign the verdict form and advise the bailiff. If you unanimously answered Question No. 5
"Not Guilty," then proceed to answer Question No. 6.*

QUESTION NO. 6: Is JAMES M. ANDERSON guilty or not guilty of
DISTURBING THE PEACE?

Not Guilty _____ Guilty _____

DATED this 20 day of October, 2009.


Presiding Juror

ORIGINAL

BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (ISBN: 6068)
406 South Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2009 OCT 26 P 3:38

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON,

Defendant.

CASE NUMBER CR-08-0007529

**MOTION TO SET ASIDE JURY VERDICT
AND FOR ENTRY OF JUDGMENT OF
ACQUITTAL; NOTICE OF HEARING**

DATE: NOVEMBER 17, 2009

TIME: 10:30 A.M.

COMES NOW the above-named defendant, by and through his attorney, Isabella Robertson, Bonner County Public Defender, and pursuant to I.C.R. 29(c), hereby moves the Court for its Order setting aside the jury's verdict of guilty and for entry of a judgment of acquittal.

The foregoing motion is made on the grounds that the jury failed to properly consider all of the evidence at hand, and/or failed to properly read or consider the jury instructions given by the Court, and/or based its verdict on facts not applicable to the charge of Second Degree Murder, i.e., that the jury based its verdict on the fact they felt it was improper for the Defendant to have gone into his home and retrieved the firearm at all, or that he should have fired a warning shot into the air, rather than considering whether the acts of the Defendant fulfilled the statutory elements of the offense of Second Degree Murder.

**MOTION TO SET ASIDE JURY VERDICT AND FOR ENTRY
OF JUDGMENT OF ACQUITTAL; NOTICE OF HEARING**


Page 1

NOTICE OF HEARING

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal on for hearing on **November 17, 2009, at the hour of 10:30 a.m.,** or as soon thereafter as counsel may be heard before the **Honorable Steve Verby, District Judge.**

DATED this 26 day of October, 2009.

OFFICE OF THE BONNER
COUNTY PUBLIC DEFENDER

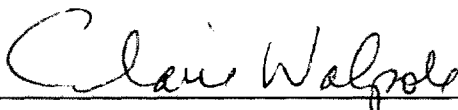
BY: 
ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the foregoing were personally served by depositing copies thereof in the courthouse mailbox or by facsimile on the 26th day of October, 2009, addressed to:

Louis Marshall
Bonner County Prosecuting Attorney
Via Fax: 263-6726

Bonner County Jail
Via Fax: 255-1975.



ORIGINAL

BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (ISBN: 6068)
406 South Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2009 OCT 26 P 3: 38

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,	)	CASE NUMBER CR-08-0007529
)	
Plaintiff,	)	MOTION FOR STAY OF EXECUTION OF
	)	JUDGMENT AND FOR O.R. RELEASE OR
V.	)	ADMISSION TO BAIL PENDING
	)	APPEAL; NOTICE OF HEARING
JAMES M. ANDERSON,)	
	)	DATE: NOVEMBER 17, 2009
Defendant.	)	TIME: 10:30 A.M.
)	

COMES NOW the above-named Defendant, by and through his attorney of record, Isabella Robertson, Bonner County Public Defender, and hereby moves the Court pursuant to I.C.R. 46(b) and 54.5, and Idaho Code §19-3941, for an order staying execution of the judgment entered herein, and for O.R. release or admission to reasonable bond in an amount set in the Court's discretion pending appeal pursuant to I.C.R. 46(b).

The foregoing motion is based upon the record and pleadings in this cause, and is further based upon the Eighth and Fourteenth Amendments to the United States Constitution, and Article I, §§ 6 and 13 of the Constitution of the State of Idaho.

NOTICE OF HEARING

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion for Stay of Execution of Judgment Pending Appeal and for O.R. Release or Admission to Bail Pending Appeal on for hearing on **November 17, 2009, at the hour of 10:30 a.m., or as soon thereafter** as counsel may be heard before the **Honorable Steve Verby, District Judge.**

DATED this 16 day of October, 2009.

OFFICE OF THE BONNER
COUNTY PUBLIC DEFENDER

BY:

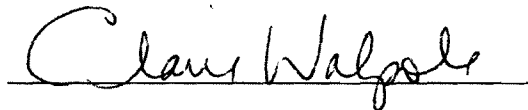


ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 26th day of October, 2009, served a true and correct copy of the foregoing by leaving a copy in the interoffice mailbox, addressed as follows:

Shane Greenbank
Deputy Prosecuting Attorney.



STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2009 OCT 30 P 1:32

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY *ms*

BONNER COUNTY PROSECUTING ATTORNEY

LOUIS E. MARSHALL (ISB #6441)

127 S. First Avenue

Sandpoint ID 83864

(208) 263-6714

(208) 263-6726 (Fax)

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,


Defendant.

Case No.: **CR-2008-7529**

**MOTION FOR PREPARATION OF
TRANSCRIPT**

COMES NOW Louis E. Marshall, Bonner County Prosecuting Attorney, and
hereby moves the Court for the preparation of a transcript of the Jury Trial in the above-
entitled matter held on October 13 through 15, 2009. Specifically, we would like a
transcript of all of the testimony of Patrick Ziarnick.

DATED this 29 day of October, 2009.

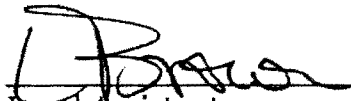

LOUIS E. MARSHALL
Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was delivered this
30th day of Oct, 2009, to:

Isabella Robertson

Public Defender
Courthouse mailbox
Sandpoint, ID



Legal Assistant

From BONNER COUNTY PROSECUTOR

12082636726

10/27/2008 08:57

#616 P.001/001

STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DISTRICT

2009 NOV -4 P 1:34

MARIE SCOTT
CLERK DISTRICT COURT
cm
DEPUTY**BONNER COUNTY PROSECUTING ATTORNEY****Louis E. Marshall (ISBN 6441)**

127 South First Avenue

Sandpoint, ID 83864

(208) 263-6714

(208) 263-6726 Fax

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

DOB: [REDACTED]

Defendant.

Case No. **CR-2008-7529****MOTION AND STIPULATION TO RELEASE**

COMES NOW Louis E. Marshall, Prosecuting Attorney for Bonner County, Idaho, and moves the Court to release to Ian J. Freir the 2001 Ford F250 truck bearing VIN# 1FTNW21581EA02003 with registered owner showing as Ian J. Freir.

DATED this 27th day of October, 2009.

 LOUIS E. MARSHALL
 Prosecuting Attorney
No Objection.

ISABELLA ROBERTSON**Public Defender / Attorney for Defendant**

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2009 NOV 17 P 1:17

MARIE SCOTT
CLERK DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF IDAHO
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

DOB: [REDACTED]

Defendant.

Case No. CR-2008-7529

ORDER TO RELEASE VEHICLE

Pursuant to the Motion filed by Louis E. Marshall, Prosecuting Attorney for Bonner County, Idaho, and stipulated to by Isabella Robertson, Public Defender, Attorney for Defendant, and good cause appearing, now, therefore,

IT IS HEREBY ORDERED that the 2001 Ford F250 truck bearing VIN#

1FTNW21581EA02003 with registered owner showing as Ian J. Freir be released to Ian J. Freir.

DATED this 17th day of November, 2009.


STEVE VERBY
District Judge

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was delivered this 17th day of November, 2009, to:

Louis E. Marshall

Prosecuting Attorney
Courthouse mailbox
Sandpoint, ID

Isabella Robertson

Public Defender
Courthouse mailbox
Sandpoint, ID

Detective Howard Burke

Bonner County Sheriff's Office
Courthouse mailbox
Sandpoint, ID

Cherie Moore

Deputy Clerk

☒ ADULT

☐ JUVENILE

STATE OF IDAHO
County of Bonner
FILED 11-17-09
AT 10:30 O'Clock A.M.
CLERK, DISTRICT COURT
Deputy *[Signature]*

JAIL INFORMATION FOR BONNER COUNTY SHERIFF'S OFFICE

JUDGE: Verby

CASE NO. CMR -- 7529

James
(SUBJECT'S FIRST NAME)

Matthew
(SUBJECT'S MIDDLE NAME)

Anderson
(SUBJECT'S LAST NAME)

☐ BY VIDEO
☒ SUBJECT APPEARED IN COURT ON: 17 Nov 09 AT 10:35 A.M.

☒ SUBJECT IS TO: ☐ BE OR'D ☒ REMAIN IN CUSTODY
☐ BE RELEASED BY JUDGES ORDER
☐ BE RELEASED/TIME SERVED ☒ BOND \$ Same
☐ BE RELEASED TO PARENT/PTA
☐ MUST SIGN WAIVER OF EXTRADITION ☐ WORK RELEASE/SEARCH GRANTED
☐ AUTHORIZATION TO TRANSFER TO REGION ONE JUVENILE DETENTION CENTER GRANTED, IF NECESSARY.

☐ SENTENCED TO: ☐ _____ DAYS IMPOSED ☐ _____ HOURS ON SHERIFF'S LABOR PROGRAM.
☐ _____ DAYS SUSPENDED **SIGN UP WITHIN SEVEN (7) DAYS FROM TODAY**
☐ _____ DAYS TO SERVE **AT SHERIFF'S OFFICE AND COMPLETE BY:**
☐ _____ DAYS CREDIT _____, 20____.

☐ SUBJECT TO REPORT TO THE BONNER COUNTY JAIL ON: _____ AT _____ M
☐ BREATH OR U/A TEST ORDERED _____ X'S WEEKLY ON: _____ AT _____ M
☐ SUBJECT PLACED IN THE CUSTODY OF THE DEPT. OF HEALTH & WELFARE NOT TO EXCEED _____ YEAR(S).

☐ SUBJECT SENTENCED TO SERVE NOT LESS THAN _____ AND NOT MORE THAN _____
IN THE IDAHO STATE DEPT. OF CORRECTIONS.
☐ THIS SENTENCE IS SUSPENDED. ☐ PLACED ON _____ YEARS PROBATION.
☐ SUBJECT TO BE PLACED IN THE RETAINED JURISDICTION PROGRAM FOR NOT MORE THAN 180 DAYS.
☐ AS CONDITION OF PROBATION, SUBJECT TO SERVE _____ DAYS LOCAL JAIL.

CHARGES Motion Hearings

murder II - Guilty - Motion 1 - Denied
Motion 2 - withdrawn

bond remains the same.

JUDGE'S ORDER: SUBJECT IS TO Remain In Custody

☐ JUDGE'S ORDER WILL FOLLOW

☐ PUBLIC DEFENDER OFFICE APPOINTED

JUDGE'S SIGNATURE (if needed)

-368-

[Signature]

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VALERIE LARSON
CLERK: LINDA OPPELT
DIVISION: DISTRICT

CASE NO. CR-2008-7529
DATE: 11-17-09 **TIME: 10:30 A.M.**
CD: 09-274

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS

**MOTION FOR STAY OF EXECUTION OF JUDGMENT PENDING
 APPEAL AND FOR O.R. RELEASE OR ADMISSION TO BAIL
 PENDING APPEAL;
 MOTION TO SET ASIDE JURY VERDICT AND FOR ENTRY OF
 JUDGMENT OF ACQUITTAL**

INDEX	SPEAKER	PHASE OF CASE
10:37	J	Calls Case
		Present: DEFENDANT PRESENT IN CUSTODY WITH ISABELLA ROBERTSON, LOUIS MARSHALL
	J	TAKE UP MOTION TO SET ASIDE JURY VERDICT.
	IR	MOTION BASED ON THE GROUNDS THAT THE JURY DID NOT PROPERLY CONSIDER ALL THE EVIDENCE AT HAND AND JURY INSTRUCTIONS. THEY BASED THEIR VERDICT ON FACTS NOT APPLICABLE ON THE CHARGE OF SECOND DEGREE MURDER. INFORMATION RECEIVED FROM A JUROR CAN NOT BE USED AS EVIDENCE. THAT JUROR CAN NOT TESTIFY SO I WILL NOT REVEAL HER NUMBER. JURY INSTRUCTIONS WERE NOT GIVEN WEIGHT REQUIRED BY THE UNITED CONSITUTION BILL OF RIGHTS AMENDMENT 5&6. MY CLIENT DIDN'T RECEIVE DUE PROCESS OF LAW THROUGH JURY DELIBERATION AND DID NOT RECEIVE IMPARTIAL TRIAL.
		ONE JUROR DECLINED TO FOLLOW A JURY INSTRUCTION. BASED VERDICT ON OTHER ISSUES. ASKING FOR AN ORDER SETTING ASIDE JURY VERDICT AND FOR ENTRY OF JUDGMENT OF ACQUITTAL OR FOR A NEW TRIAL
10:41	J	WHAT BASIS CAN I GRANT YOUR MOTION?
	IR	UNLESS THE COURT CONDUCTS AN EVIDENTIARY HEARING INTO WHAT THE JUROR TOLD ME OR I HAVE NO OTHER BASIS.
	J	TO WHICH I AM NOT PREVIE TO NOR CAN I CONSIDER.
	IR	CONSIDER THE SHORT TIME JURY WAS OUT. JURY WAS OUT FOR 3 HOURS. SINCE I CAN'T BRING IN THE JURY I HAVE TO RELY ON THAT BASIS.
10:46	J	12:53 JURY WENT TO JURY ROOM
		5:03 VERDICT READ.
	IR	I WAS IN DRUG COURT AND AT 4:20 I WAS TOLD THE JURY REACHED A VERDICT. WHICH IS 3 ½ HOURS.
	J	AGREE IN ONE OF THE RECORDINGS FROM 911 THAT YOUR CLIENT SAID NOT AN ACCIDENT?
		ANOTHER CALL NO REASON FOR THE SHOOTING?
	IR	TAKEN OUT OF CONTEXT YES HE SAID THAT.
	LM	THE MOTION SEEMS FOR IMPEACHMENT.
	J	WHY SHOULDN'T I GRANT THIS?

	LM	NO CASE LAW SUPPORTS IT.
	J	REBUTTAL?
	IR	NO
10:49	J	606(B) - CITES.
		DO NOT HAVE GROUNDS TO GRANT THE MOTION.
		STATE V. STONE COURT OF APPEALS. CITES CASE.
		THERE IS SUBSTANTIAL EVIDENCE. DENY MOTION.
10:53		MOTION FOR STAY OF EXECUTION OF JUDGMENT PENDING APPEAL AND FOR O.R. RELEASE OR ADMISSION TO BAIL PENDING APPEAL.
	IR	REALIZE JUDGMENT HAS NOT BEEN ENTERED. ASKING FOR STAY ON THE JUDGMENT. CAN WITHDRAW MOTION FOR STAY OF EXECUTION OF JUDGMENT IF IT IS NOT RIPE AT THIS TIME. ASK FOR HEARING ON RELEASE.
	J	ASKING TO WITHDRAW MOTION FOR STAY OF EXECUTION OF JUDGMENT PENDING APPEAL?
	IR	YES
	J	HAVE ISSUE OF BOND?
	IR	YES
	J	GO AHEAD.
	IR	HAS A FAMILY AND JOB. REDUCE BOND.
	LM	DECLINE TO REDUCE BOND.
	J	DECLINE TO REDUCE BOND. THINGS CHANGE ONCE THERE IS A CONVICTION.
	LM	THERE WAS A STIPULATION TO RELEASE EVIDENCE.
	J	BASED ON STIPULATION WILL SIGN ORDER TO RELEASE EVIDENCE
		ANYTHING FURTHER?
	LM IR	NO
10:58		END

STATE OF IDAHO
COUNTY OF BONNER
1ST JUDICIAL DISTRICT

2009 NOV 18 A 10:06

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

DEPUTY *San*

STATE OF IDAHO,

Plaintiff,

VS.

JAMES M. ANDERSON,

Defendant.

Case No.: CR-2008-7529

**ORDER FOR PREPARATION OF
TRANSCRIPT**

Pursuant to the Motion for preparation of a transcript of all of the testimony of Patrick Ziarnick in the Jury Trial in the above-entitled matter held October 13 through 22, 2009, and good cause appearing, now therefore,

IT IS HEREBY ORDERED that a transcript of all of the testimony of Patrick Ziarnick in the Jury Trial of the above-entitled matter be prepared.

DATED this 17th day of November, 2009.

Steve Verby
STEVE VERBY
District Judge

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was delivered this 18 day of November, 2009, to:

Louis E. Marshall
Prosecuting Attorney
Courthouse mailbox
Sandpoint, ID

Isabella Robertson
Public Defender
Courthouse mailbox
Sandpoint, ID

Dagmar M. Mueller
Deputy Clerk

First Judicial District Court, State of Idaho
In and For the County of Bonner
215 S. First Avenue
Sandpoint, Idaho 83864

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

STATE OF IDAHO,
Plaintiff.

vs.

James Matthew Anderson
468000 Hwy 95
Sagle, ID 83860

Defendant.

DOB: [REDACTED]
DL or SSN: [REDACTED]

2009 NOV 23 A 8:28

MARIE SCOTT
CLERK DISTRICT COURT
cm
DEPUTY

Case No: CR-2008-0007529

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

**Sentencing
Judge:**

**Tuesday, January 19, 2010 @ 03:30 PM
Steve Verby**

Alternate Presiding Judges: Charles W. Hosack, John P. Luster,
Fred M. Gibler, George Reinhardt, III, James R. Michaud, John H.
Bradbury, Lansing Haynes

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Monday, November 23, 2009:

James Matthew Anderson

Mailed _____ Hand Delivered _____

Counsel:
Isabella Robertson
Bonner County Public Defender

COURT
MAILED ✓

Hand Delivered _____

Louis E Marshall
Bonner County Prosecutor

COURT
MAILED ✓

Hand Delivered _____

Probation and Parole

Faxed ☒ Hand Delivered _____

Dated: Monday, November 23, 2009

Marie Scott
Clerk of the District Court

By:

Cherie Moore
Deputy Clerk

STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DISTRICT

2010 JAN 15 P 1:54

MARK SCOTT
JUDICIAL DISTRICT COURT
CLERK

BONNER COUNTY PROSECUTING ATTORNEY

Louis E. Marshall (ISBN 6441)

127 South First Avenue

Sandpoint, ID 83864

(208) 263-6714

(208) 263-6726 Fax

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

DOB: [REDACTED]

Defendant.

Case No. **CR-2008-7529**


**NOTICE OF INTENT TO PROVIDE
TESTIMONY AT SENTENCING**

COMES NOW Louis E. Marshall, Prosecuting Attorney, and hereby gives notice to the above-named Defendant, James M. Anderson, and his Attorney of record, Isabella Robertson, Public Defender, that the State intends to produce written hearsay evidence at the time of sentencing.

This evidence consists of a police report from Conroy, Texas, concerning the Defendant. The report is attached and is incorporated herewith. This police report was previously provided to the Defendant as pages 225 through 227 of Plaintiff's response to Defendant's discovery request.

The State also intends to call Detective Sgt. Howard Burke as a witness at the sentencing hearing presently scheduled for January 19, 2010, at 3:30 o'clock p.m.

DATED this 15th day of January, 2010.

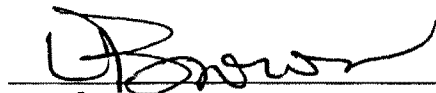


LOUIS E. MARSHALL
Prosecuting Attorney

CERTIFICATE OF DELIVERY

this 15th day of Jan, 2010, to:

Isabella Robertson – fax'd
Public Defender



Legal Assistant

12/09/2008
09:46

Conroe Police Department
LAW Incident Table:

Page: 299
1

Incident Number: 02091091

Nature: Dist, Domestic

Case Number:

Image:

Addr= 2215 N 1ST ST

Area: B

City: Conroe

ST: TX Zip: 77301

Contact: ESMERALDA

+-- Complainant:

56982

| Lst: DAVIS

Fst: REBECCA

Mid: LAWRENCE

| DOB: [REDACTED]

SSN: [REDACTED]

Adr: 17415 RUSTIC PINE TRL

| Rac: W Sx: F Tel: (281) 537-2743

Cty: Houston

ST: TX Zip: 77090

Offense Codes: ASLT

Reported:

Observed:

Circumstances: DVNW

Rspndg Officers: Hovey, R

Ferraro, J

Holt, M

&

Rspnsbl Officer: Hovey, R

Agency: CPD

CAD Call ID: 177675

Received By: White, Y

Last RadLog: 04:24:44 09/08/2002 CMPLT

How Received: 9 911 Line

Clearance: CA Cleared - Arrest

When Reported: 03:01:41 09/08/2002

Disposition: CAA Disp Date: 09/08/2002

Occurrd between: 03:00:00 09/08/2002

Judicial Sts:

and: 03:02:00 09/08/2002

Misc Entry:

MO:

Narrative: (See below)

Supplement:

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
AR	0209064	09/08/2002	ASSLT FAMILY MEMBER ONE TIME	*Arrest/Offense
NM	2881	/ /	CADENGO HINOJOSA, ESMERALDA	Complainant
NM	27205	/ /	DOOLEY, JAENNETTE MARIE	Witness
NM	56982	/ /	DAVIS, REBECCA LAWRENCE	*Complainant
NM	60223	/ /	ANDERSON, JAMES MATTHEW	Suspect
NM	80161	/ /	DOOLEY, DAWANA KAY	Witness
CA	177675	09/08/2002	03:01 09/08/2002 Dist, Domesti	*Initiating Call

LAW Incident Offenses Detail:

Offense Codes

Seq Code

Amount

1 ASLT Assault

0.00

LAW Incident Circumstances:

Contributing Circumstances

Seq Code

Comments

1 DVNW Domestic Violence, No Weapon

-375-

225

LAW Incident Responders Detail

Responding Officers

Seq	Name	Unit
1	Hovey, R	94
2	Ferraro, J	19
3	Holt, M	803
4	Stowe, M	93
5	Stowe, M	93

Main Radio Log Table:

Time/Date	Typ	Unit	Code	Zone	Agnc	Description
04:24:44 09/08/2002	1	94	CMPLT	B	CPD	incid#=02091091 Completed call
03:50:48 09/08/2002	1	93	CMPLT	B	CPD	incid#=02091091 Completed call
03:50:15 09/08/2002	1	19	CMPLT	B	CPD	incid#=02091091 Completed call
03:47:24 09/08/2002	1	19	I	1C	CPD	CASE NUMBER
03:39:21 09/08/2002	1	94	ARRVD	B	CPD	incid#=02091091 CJC call=591
03:29:38 09/08/2002	1	94	I	2R	CPD	anderson,james 010180
03:28:24 09/08/2002	1	93	ARRVD	B	CPD	incid#=02091091 mcso call=591
03:24:51 09/08/2002	1	93	ARRVD	B	CPD	incid#=02091091 org location c
03:24:12 09/08/2002	1	803	CMPLT	B	CPD	incid#=02091091 Completed call
03:23:36 09/08/2002	1	93	ENRT	B	CPD	incid#=02091091 back to org lo
03:23:24 09/08/2002	1	93	I	1D	CPD	subj detained
03:22:07 09/08/2002	1	93	ARRVD	B	CPD	incid#=02091091 linda & becky
03:20:50 09/08/2002	1	803	I	SU	CPD	EMS ON LOCATION
03:12:07 09/08/2002	1	19	ARRVD	B	CPD	incid#=02091091 Arrived on sce
03:11:39 09/08/2002	1	803	I	SU	CPD	HAVE EMS CK BY NON EMERGENCY
03:09:52 09/08/2002	1	19	CMPLT	B	CPD	incid#=02091091 DIS BY 93 call
03:09:39 09/08/2002	1	93	ARRVD	B	CPD	incid#=02091091 Arrived on sce
03:08:45 09/08/2002	1	803	ARRVD	B	CPD	incid#=02091091 Arrived on sce
03:06:48 09/08/2002	1	19	I	1C	CPD	i am a ways out
03:06:42 09/08/2002	1	94	ARRVD	B	CPD	incid#=02091091 Arrived on sce
03:05:34 09/08/2002	1	94	I	2R	CPD	uz 18
03:02:12 09/08/2002	1	19	ASSGN	B	CPD	incid#=02091091 Assigned to a
03:02:12 09/08/2002	1	94	ASSGN	B	CPD	incid#=02091091 Assigned to a

Narrative:

On 090802 at 0302 hrs. I, Officer Hovey, was dispatched to a disturbance at 2215 N Frazier. A male was reported to be assaulting two females outside of that residence. Upon arrival I met with Rebecca Davis (complainant). She reports that her fiancé, James Anderson (arrested), has assaulted her. I also met with a second complainant, Esmeralda Cadengo (complainant 2), who states that Mr. Anderson assaulted her as well. I identified two other witnesses, Jaennette and Dawana Dooley. The Dooley's reside at 2215 N 1st.

Ms. Davis states that on this evening she and James were attending a birthday party at 2215 N 1st, which is directly beside their own residence at 2213 N 1st. They both had been drinking alcohol. Rebecca and James returned to their residence at appx. 0130 hrs. When they left 2215 N 1st, there were still people outside on the porch there. Rebecca states that she and James engaged in an argument over unknown circumstances. Rebecca states the argument escalated and James began to act violently toward her. Rebecca states at this point she prepared to

leave the residence to distance herself. Rebecca recalls that James struck her on the face as she walked outside. Rebecca claims to not remember much from this point on and believes she may have passed out.

Ms. Cadengo was on the front porch of 2215 N 1st when she witnessed Rebecca exit the house with James. She states James was hitting Rebecca with his closed fist. She also claims to have witnessed James throw Rebecca to the ground and begin stomping on her upper body with his foot. Ms. Cadengo went to Rebecca's aid. Ms. Cadengo states James then threw her to the ground and struck her on her upper body with his closed fist. Jaennette Doley states that she attempted to intervene as well, but James threw her to the ground as well. Esmeralda and Jaennette departed and called 911.

At my arrival, I was informed that James had reentered his residence. With the assistance of Officer M Stowe, I checked the residence and discovered that James had fled. The back door was ajar. Officer Stowe checked the area and located James walking in the area of Becky and Linda. He detained James and returned to the scene with him.

I observed Rebecca displayed a severely swollen left cheek and her left eye was swelling closed. Her lip was crusted with dry blood. Rebecca was unable to provide a written statement. She did however, sign a non-prosecution statement. Esmeralda states that she does want to file charges for assault and signed to that effect. She also provided a written statement. I observed that Esmeralda had an abrasion on her right forearm and red marks on her chest. Her clothes were mud stained. Jaennette sustained no injuries.

Rebecca and James cohabitate and have been engaged for 8 months. Both were alleged to have consumed a large amount of alcohol. James has at least one firearm in his residence. I placed James under arrest for assault family violence in order to prevent further violence. Rebecca was examined by MCHD unit 72, but refused transport.

This report is Assault Family Violence (misd-a)

Hovey

BONNER COUNTY PUBLIC DEFENDER
 Isabella Robertson (I.S.B.N. 6068)
 406 S. Ella Street
 Sandpoint, ID 83864
 Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

2010 JAN 15 P 4:43

MARIE SCOTT
 CLERK DISTRICT COURT

cm
 DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,)	
	)	CASE NUMBER CR-08-0007529
Plaintiff,)	
	)	MOTION FOR NEW TRIAL; NOTICE OF
V.	)	HEARING
)	
JAMES M. ANDERSON,	)	DATE: MARCH 1, 2010
	)	TIME: 11:30 A.M.
Defendant.)	

COMES NOW the Defendant, JAMES M. ANDERSON, by and through his attorney, Isabella Robertson, Bonner County Public Defender, and pursuant to Idaho Code § 19-2406(7) and Idaho Criminal Rule 34, respectfully moves the Court to order a new trial in this case.

The foregoing motion is made on the basis that there was error in the jury instructions in that the jury instructions did not place the definitions for the defense of self, the right of self defense, defense of others, or justifiable homicide prior to the jury instruction for Murder of the Second Degree, Instruction #17. The way the jury instructions were presented did not require the jury to even consider all of the instructions that encompass justification or excuse prior to instruction #19, which is the requirement that they must return a verdict of Murder of the Second Degree before


considering the included offenses of voluntary manslaughter, et al., and the defenses that encompass the balance of the jury instructions for legal justification or excuse.

NOTICE OF HEARING

PLEASE TAKE NOTICE that the undersigned will bring the Defendant's Motion for New Trial on for hearing before the Honorable Steve Verby, District Judge, at the Bonner County Courthouse, on the 1st day of March, 2010, at the hour of 11:30 a.m., or as soon thereafter as the matter may be heard.

DATED this 15 day of January, 2010.

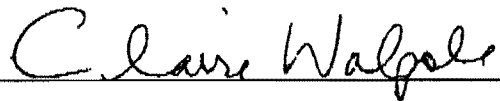
OFFICE OF THE BONNER COUNTY
PUBLIC DEFENDER

BY 
ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same in the interoffice mailbox on the 15th day of January, 2010, addressed to:

Louis Marshall
Bonner County Prosecuting Attorney
Fax: 263-6726.



BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (I.S.B.N. 6068)
406 South Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2010 JAN 19 A 7:24

HARVE SCOTT
CLERK DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON,

Defendant.

CASE NUMBER CR-08-0007529

STIPULATED MOTION TO CONTINUE
SENTENCING

COME NOW the parties, Defendant, James M. Anderson, by and through Isabella Robertson, Bonner County Public Defender, and the State of Idaho by and through Louis Marshall, Bonner County Prosecuting Attorney, and respectfully move the Court for its Order continuing the sentencing scheduled in this matter on January 19, 2010, at 3:30 p.m., to a date at least two (2) weeks later.

The foregoing motion is made on the basis that the State has today served the Defendant with a Notice of Intent to introduce certain information at sentencing regarding the Defendant's character, including the testimony of Detective Howard Burke, and the defense is entitled to an appropriate period of time in which to plan its response at sentencing. Further, the Defendant will today be filing a motion for a new trial in this case based on grounds set forth in that motion.

DATED this 15th day of January, 2010.

OFFICE OF THE BONNER
COUNTY PUBLIC DEFENDER

BY:

I. Robertson
ISABELLA ROBERTSON
PUBLIC DEFENDER

BONNER COUNTY PROSECUTING
ATTORNEY'S OFFICE

BY:

Louis Marshall
LOUIS MARSHALL
PROSECUTING ATTORNEY

STIPULATED MOTION TO CONTINUE SENTENCING

Page 1

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing a copy of the same in the interoffice mailbox or by facsimile on the 5th day of January, 2010, addressed to:

Louis Marshall
Bonner County Prosecuting Attorney
Fax: 263-6726.

C. Anne Walpole

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: CHERIE MOORE
DIVISION: DISTRICT

CASE NO. CR-2008-0007529
DATE: 01/19/2010 TIME: 3:30 PM
CD: 10-004

STATE OF IDAHO

vs. JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Attorney: LOUIS MARSHALL

Attorney: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS: SENTENCING

INDEX	SPEAKER	PHASE OF CASE
3:31	J	Calls Case
		Present: DEFENDANT IN CUSTODY, ISABELLA ROBERTSON, LOUIS MARSHALL
	J	MATTER ORIGINALLY BEFORE THE COURT FOR SENTENCING AND I HAVE RECEIVED THIS MORNING A STIPULATED MOTION TO CONTINUE THE SENTENCING – MS. ROBERTSON, YOU WISH TO BE HEARD?
	IR	I RECEIVED LAST WEEK NOTICE FROM THE PROSECUTOR FOR HEARSAY EVIDENCE TO PUT DETECTIVE BURKE ON THE STAND – GIVEN THE INFORMATION, MR. BURKE WILL BE TESTIFYING AS TO WHAT MY CLIENT'S NEIGHBORS HAVE TO SAY ABOUT HIM AND THINGS THAT ARE NOT RELEVANT – DEFENSE NEEDS TIME TO WORK WITH THE HEARSAY EVIDENCE – IT IS NOT RELEVANT TO THE CASE
	J	WHAT IS THE INFORMATION TO BE INTRODUCED?
	IR	INFORMATION THAT I WOULD RATHER HAVE ON SIDE BAR – ON THE RECORD, A LOT OF INFORMATION, I WOULD RATHER KEEP OUT
	J	MR. MARSHALL?
	LM	A POLICE REPORT FROM A DIFFERENT JURISDICTION
	J	THIS IS A POLICE REPORT FROM A PREVIOUS CRIME THAT OCCURRED IN TEXAS?
	LM	THAT IS CORRECT
	J	WHAT TYPE OF CRIME?
	LM	FAMILY VIOLENCE
	J	THAT WAS GIVEN TO YOU LAST THURSDAY?
	IR	YES – I GOT IT LAST WEEK
	J	ALRIGHT – HOW MUCH TIME DO YOU NEED, MS. ROBERTSON?
	IR	2 WEEKS
	J	HOW MUCH TIME DO WE NEED FOR SENTENCING?
	IR	AN HOUR AND A HALF
	J	RESET SENTENCING ON FEBRUARY 12TH AT 3:30 PM – AS IT RELATES TO THE ISSUE OF VICTIM'S STATEMENTS – DO YOU ANTICIPATE THAT THERE WILL BE VICTIM STATEMENTS?
	LM	YES, YOUR HONOR
	J	YOU WILL PREPARE SOME TYPE OF SUMMARY AS TO WHAT CAN AND CANNOT BE SAID SO THERE WON'T BE AN ISSUE – ANTICIPATING THAT YOU WILL GO OVER VICTIM'S STATEMENTS WITH THAT PERSON – CAN BE GROUNDS FOR APPEAL

	LM	I WOULD ENCOURAGE THEM TO COME UP WITH WRITTEN STATEMENTS
	J	ALRIGHT – THANK YOU
3:38	END	

☒ ADULT

☐ JUVENILE

STATE OF IDAHO
County of Bonner
FILED 1/19/2010
AT 3:30 O'Clock P M
CLERK, DISTRICT COURT
Deputy *dm*

JAIL INFORMATION FOR BONNER COUNTY SHERIFF'S OFFICE

JUDGE: VEARY

CASE NO. CL08 - 7529

(SUBJECT'S FIRST NAME)

(SUBJECT'S MIDDLE NAME)

(SUBJECT'S LAST NAME)

☒ SUBJECT APPEARED IN COURT ON: 01-19-10 AT 330 P M

☒ SUBJECT IS TO: ☐ BE OR'D ☒ REMAIN IN CUSTODY
☐ BE RELEASED BY JUDGES ORDER
☐ BE RELEASED/TIME SERVED ☐ BOND \$
☐ BE RELEASED TO PARENT/PTA
☐ MUST SIGN WAIVER OF EXTRADITION ☐ WORK RELEASE/SEARCH GRANTED
☐ AUTHORIZATION TO TRANSFER TO REGION ONE JUVENILE DETENTION CENTER GRANTED, IF NECESSARY.

☐ SENTENCED TO: ☐ DAYS IMPOSED ☐ HOURS ON SHERIFF'S LABOR PROGRAM.
☐ DAYS SUSPENDED **SIGN UP WITHIN SEVEN (7) DAYS FROM TODAY**
☐ DAYS TO SERVE **AT SHERIFF'S OFFICE AND COMPLETE BY:**
☐ DAYS CREDIT _____, 20____.

☐ SUBJECT TO REPORT TO THE BONNER COUNTY JAIL ON: _____ AT _____ M
☐ BREATH OR U/A TEST ORDERED _____ X'S WEEKLY ON: _____ AT _____ M
☐ SUBJECT PLACED IN THE CUSTODY OF THE DEPT. OF HEALTH & WELFARE NOT TO EXCEED _____ YEAR (S).

☐ SUBJECT SENTENCED TO SERVE NOT LESS THAN _____ AND NOT MORE THAN _____
IN THE IDAHO STATE DEPT. OF CORRECTIONS.
☐ THIS SENTENCE IS SUSPENDED. ☐ PLACED ON _____ YEARS PROBATION.
☐ SUBJECT TO BE PLACED IN THE RETAINED JURISDICTION PROGRAM FOR NOT MORE THAN 180 DAYS.
☐ AS CONDITION OF PROBATION, SUBJECT TO SERVE _____ DAYS LOCAL JAIL.

CHARGES SENTENCING -
MURDER II

MOTION TO CONTINUE -

JUDGE'S ORDER: SUBJECT IS TO REMAIN IN CUSTODY.

SENTENCING CONTINUED: FEB 12, 2010 @ 330pm

☐ JUDGE'S ORDER WILL FOLLOW

☐ PUBLIC DEFENDER OFFICE APPOINTED

JUDGE'S SIGNATURE (if needed)

-384-

RAHKE

STATE OF IDAHO
JUDICIAL DISTRICT
BONNER COUNTY

2010 JAN 20 A 9:10

CLERK OF DISTRICT COURT
BONNER COUNTY
IDaho

BONNER COUNTY PROSECUTING ATTORNEY

127 S. First Avenue
Sandpoint, ID 83864
(208) 263-6714
Fax: (208) 263-6726

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

DOB: [REDACTED]

Defendant.

Case No. **CR-2008-7529**

SUBPOENA

Incident No. 08-019839

THE STATE OF IDAHO TO:

DETECTIVE SGT. HOWARD BURKE

Bonner County Sheriff's Office

PHONE: 208-000-0000

DOB: 00-00-0000

YOU ARE COMMANDED to appear before the above-entitled Court, Bonner County Courthouse, Sandpoint, Idaho, as a witness for the **STATE OF IDAHO** in the above matter. For a failure to attend, you will be deemed guilty of Contempt of Court.

DATE: January 19, 2010

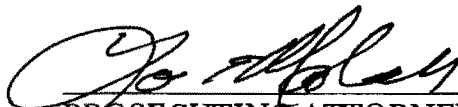
TIME: 3:30 p.m.

Sentencing Hearing

By Order of the Court.

Given under my hand and seal at Sandpoint, Idaho, this 15th day of January, 2010.

PROSECUTOR'S OFFICE by:



PROSECUTING ATTORNEY

NOTICE:

You are being subpoenaed by the Prosecuting Attorney. Please contact this office at (208) 263-6714 between 4:00 P.M. and 5:00 P.M. the day before you are scheduled to attend so that you can be aware of the status of the case.

January 15, 2009-lmb

Received 1-19-10 by K. Harris

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

COURT MINUTES

**JUDGE: STEVE VERBY
REPORTER: VAL LARSON
CLERK: SANDRA RASOR
DIVISION: DISTRICT**

**CASE NO. CR-08-7529
DATE: 02/12/10 TIME: 3:30 PM
CTRM 1**

STATE OF IDAHO

vs JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Atty: LOUIS MARSHALL

Atty: ISABELLA ROBERTSON

**SUBJECT OF PROCEEDINGS SENTENCING
CHARGE**

INDEX	SPEAKER	PHASE OF CASE
3:33	J	Calls Case
		Present: DEFENDANT IN CUSTODY, ISABELLA ROBERTSON, LOUIS MARSHALL
	J	INITIALLY A MOTION FOR A NEW TRIAL, MS ROBERTSON
	IR	RELYING ON IDAHO VS WRITE 47 IDAHO 150, ID VS GERARDO 147 ID 22, ID VS CHRISTIANSON 144 ID, ID VS ROLAND 146 ID 684, LAW IS VERY CLEAR ABOUT FUNDAMENTAL ERROR BECAUSE OBJECTION NOT MADE AT TRIAL REGARDING JURY INSTRUCTIONS THAT WAS MADE POST VERDICT, TO BE DETERMINED MUST GO TO FOUNDATION OR ....ALSO IN REVIEWING DEFENSE MINDFUL JURY INSTRUCTIONS TAKEN AS A WHOLE AND NOT PIECEMEAL, THOSE JURY INSTRUCTIONS ARE WELL PAST THE INSTRUCTIONS 17,18 AND 19 WHICH DEAL SPECIFICALLY WITH MURDER OF THE FIRST DEGREE, GOES TO WHAT IS JUSTIFIED AND WHAT IS SELF DEFENSE ARE 30 THROUGH 37, WELL PAST NUMBER 19, BOTTOM OF INSTRUCTION 18 DEALS WITH MALICE ETC. DEFENSE IS ASKING FOR A NEW TRIAL BASED UPON SPLITTING OF JURY INSTRUCTIONS IN THE MANNER THAT THY WERE SO THAT IF THE JURY GOT TO INST ON 2 ND DEGREE MURDER THEY WERE NOT REQUIRED TO CONSIDER THE MITIGATING CIRCUMSTANCES, WE ARE MINDFUL OF THE LAW AND CASES CITED ARE THE LAW, FUNDAMENTAL ERROR THAT PROFOUNDLY DISTORTS THE TRIAL, ADMIT THAT WITH THE WAY THE INST WERE NUMBER JURY WAS NOT REQUIRED TO CONSIDER THE MITIGATION, THANK YOU
339	LM	NO ERROR AT ALL IN THE INSTRUCTIONS, INST 38 TALKS ABOUT HOW THE JURORS ARE SUPPOSED TO LOOK AT THE JURY FORM, IT IS RIGHT TOWARD THE BACK, EVEN THE LAST INST 42 ANOTHER REFERENCE TO AFTER CONSIDERING ALL THE INSTRUCTIONS IN THERE ENTIRETY,
340	IR	NOTHING FURTHER
	J	MINDFUL OF THE JURY INSTRUCTIONS SINCE PRIMARILY IN THE SCOPE OF THE COURTS DUTIES WITH ASSISTANCE FROM LAWYERS WITH EACH CASE I PROVIDE AN INSTRUCTION WHERE I REQUIRE THE JURORS COMPLY WITH THE LAW WITH THE FACTS FOUND, "IN SO DOING YOU MUST FOLLOW MY INSTRUCTIONS REGARDLESS OF YOUR OPINIONS....REGARD AS A WHOLE NOT PICKING OUT ONE AND DISREGARDING OTHERS" IN # 30 I EXPLAINED THAT MR. ANDERSON CONTENDS THAT THE DEFENSE IN THIS CASE THE KILLING OF ALVIN HOLT WAS JUSTIFIABLE BECAUSE HE WAS DEFENDING HIS CHILDREN, WIFE AND HIMSELF, (CITES INSTRUCTIONS GIVEN AND

		EXPLANATIONS GIVEN TO THE JURY) (CITES INSTRUCTIONS FURTHER) TAKING INTO CONSIDERATION PREVIOUS IDAHO COURT OF APPEALS DECISIONS (CITES SPECIFIC CASE) DENY THE MOTION FOR A NEW TRIAL AS RELATES TO THE SENTENCING, MR. MARSHAL ANY VICTIMS STATEMENTS MADE?
	LM	NO, OTHER THAN THE ONES IN THE PSI
346	J	ALRIGHT, TAKE A SHORT RECESS AND I WILL BE BACK,
346		OFF RECORD
356		ON RECORD
	J	WILL PROCEED
	IR	HAVE GONE OVER THE PSI, CHANGES PG 4 THE ASSAULT IN 2002 WAS A DEFERRED PROSECUTION ALSO MORE INFO, EXHIBIT # DEFENSE A, B,C AND E
	LM	NO OBJECTION BUT TECHNICALLY THAT REPORT FROM TEXAS HAS NOT BEEN ADMITTED YET
358	J	I HAVE A, B, C AND E
	IR	MAY I APPROACH I MAY HAVE STUCK SOMETHING TOGETHER, THAT IS CORRECT, D WILL COME AT A LATER TIME SIR, ADDITIONALLY INFO IN A THAT YOU HAVE ALREADY RECEIVED SHOWING DEFERRED PROSECUTION
359	LM	CALL DETECTIVE BURKE
	CLERK	HOWARD BURKE
	LM	DIRECT
	HB	BONNER COUNTY SHERIFF'S OFFICE, LEAD INVESTIGATOR IN THIS MATTER, CONTACTED TEXAS POLICE DEPT
	LM	MARK STATES EXHIBIT # 1
	HB	TALKED TO TWO OFFICERS IN THE CASE AND THE MOTHER OF THE VICTIM, EVENTUALLY RECEIVED A POLICE REPORT, ID'S COPY OF THE POLICE REPORT I RECEIVED, SAME FORM WE USE HERE IN BONNER COUNTY, ESTABLISHED FACT THAT HOVEY WAS A POLICE INVESTIGATOR AT THAT TIME, ALSO OFFICER STOWE, VERIFIED POLICE REPORT IS A TRUE COPY
	LM	MOVE FOR ADMISSION OF STATES ONE
	IR	NO OBJECTION
	J	ADMIT STATES EXHIBIT ONE
	IR	CALL MIKE FRITZSCHE
	CLERK	MIKE FRITZSCHE SWORN
	IR	DIRECT
	MF	FRIEND AND PASTOR OF THE FAMILY FOR ABOUT 4 YEARS, HE WAS ALWAYS COURTEOUS ALWAYS POLITE AND CONSIDERATE OF US, ALWAYS GENTLE WITH HIS CHILDREN, IN SPEAKING WITH HIM AS HIS PASTOR HE HAS EXHIBITED A KNOWLEDGE OF WHO GOD IS THAT IS GENUINE, I BELIEVE HE HAS CHANGED FROM THE INSIDE OUT, CHILDREN NEED HIM, BETTER SERVICE TO BE WITH HIS FAMILY, HE WAS A SPIRITUAL MAN BEFORE THIS BUT HAD DRIFTED AWAY FROM THAT, I BELIEVE HE ALWAYS BELIEVED IN GOD HAS GONE TO A BIBLE GROUP, HAS BEEN AN INFLUENCE AND HAS A CALL IN HIS LIFE TO HELP OTHERS
407	LM	CROSS
	MF	HE SEEMS REMORSEFUL, KNOW BY THE TONE OF HIS VOICE, ANYONE WHO HAS TAKEN A LIFE CHANGES,
408	J	DO YOU UNDERSTAND MY ROLE IN THE SENTENCING ISN'T ALL ABOUT MR. ANDERSON, IT IS TO PROTECT SOCIETY, DETER OTHERS, SERVE AS PUNISHMENT FOR THE ACTION THAT WAS TAKEN,
	MF	I UNDERSTAND THAT, I DON'T BELIEVE HE IS A MENACE TO SOCIETY,
410	IR	CALL WALTER LANCASTER
	CLERK	WALTER LANCASTER SWORN
	IR	DIRECT
	WL	FATHER IN LAW OF JAMES ANDERSON, HAVE KNOWN HIM 8 YEARS, FIRST I AM SORRY FOR YOUR LOSS, I KNOW JAMES WELL ENOUGH TO KNOW WHAT

		HAPPENED WAS NOT INTENTIONAL, IT COULD HAVE BEEN HANDLED BETTER THERE IS NO DOUBT, WE HAVE BEEN THROUGH SEVERAL THINGS TOGETHER, NOT ALWAYS GOOD, AS A FATHER YOU WANT TO PROTECT YOUR KIDS, I TRUST HIM, I TRUST HIM TO THE POINT THAT I TRUST HIM WITH MY DAUGHTER AND GRANDSONS AND THEY NEED HIM,
413	LM	CROSS
	WL	LETTER WRITTEN PREVIOUSLY WAS A SOMEWHAT DIFFERENT TONE, I HAVE HAD TIME TO THINK ABOUT IT, I FEEL SOME IMBALANCE HERE AND I EXPRESSED THAT IN THE LETTER
	IR	CALL CARLA LANCASTER
	CLERK	CARLA LANCASTER
	IR	DIRECT
	CL	JAMES ANDERSON IS MY SON IN LAW, I TOO AM SORRY FOR YOUR LOSS, IN MY EXPERIENCE WITH JAMES I HAVE NEVER FELT HE WAS DANGEROUS, HE HAS BEEN GOOD TO MY GRANDCHILDREN AND MY DAUGHTER, I DON'T BELIEVE HE DESERVES 10 YEARS IN JAIL AND I DON'T BELIEVE HIS CHILDREN DESERVE THAT,
416	LM	NO CROSS
	IR	CALL DARRYL AMMONS
	CLERK	DARRYL AMMONS SWORN
	IR	DIRECT
	DA	WORKED WITH JAMES, I LIKED HIM RIGHT AWAY BECAUSE OF HIS WORK ETHIC, ALWAYS ON TIME ALWAYS GAVE 100% WE BECAME GOOD FRIENDS RIGHT AWAY, GOT TO KNOW THE FAMILY, I STAYED IN TOUCH AFTER HE NO LONGER WORKED WITH ME, I KNOW HE LOVED HIS FAMILY, I KNOW HE WOULD WANT TO PROTECT THEM IF HE FELT THEY WERE THREATENED IN ANYWAY, HE HAS EXPRESSED THE REMORSE HE FEELS, KNOWING HIM THE WAY I DO I DON'T FEEL HE WAS JUST SAYING THAT FOR HIS BENEFIT, WHEN HE GETS A CHANCE HE WILL BE PRODUCTIVE IN SOCIETY
420	LM	CROSS
	DA	KNEE INJURY UNSURE OF THE DATE HE DID NOT COME TO WORK BEFORE THE INCIDENT
	IR	CALL GREGG EDDY
	CLERK	GREGG EDDY SWORN
	IR	DIRECT
	GE	MET JAMES ANDERSON THROUGH WORK, I WORKED ALONGSIDE JAMES IN THE WOODS LOGGING AND IN OUR JOB WE WERE IN MANY STRESSFUL AND DANGEROUS SITUATIONS AND I NEVER SAW HIM ACT VIOLENTLY IN ANY SITUATION,
	LM	NO QUESTIONS
	J	HOW LONG DID YOU WORK WITH HIM
	GE	I WORKED WITH HIM FOR ABOUT A YEAR
422	IR	CALL LEIGH ANN ANDERSON
	CLERK	JENNIFER LEIGH ANN ANDERSON
	IR	DIRECT
	JA	I AM HIS WIFE, I WROTE SOMETHING, THE LAST 14 MONTHS GOING OVER WHAT I WOULD SAY, I HAVE BEEN IN ANGUISH FOR THE PAIN OF BOTH FAMILIES, THE ONE WHO HAS BEEN THERE THE MOST CAME NOT ONLY FOR ME BUT FOR YOU AS WELL, MY FAMILY HAS BEEN THROUGH HELL AS WELL, THE DAY AFTER THE INCIDENT MY FAMILY WAS EVICTED, WITHIN 24 HOURS I WAS IN FLORIDA, WE HAVE LOST EVERYTHING, THERE HAVE BEEN DEATH THREATS AGAINST ME AND MY SONS, BECAUSE TWO VIGILANTES CAME TO OUR HOUSE AND THREATENED US, MY CHILDREN HAVE NIGHT MARES, I HAVE HAD NIGHTMARES OF BEING AMBUSHED AND OF MY BABIES BEING SHOT AND DYING IN MY ARMS ONE NIGHT WHEN THE ELECTRICITY WENT OUT, I CAN'T GO ANYWHERE IN SDPT WITHOUT THINKING I AM BEING WATCHED, IAN FRIER HAS BECOME MORE VIOLENT, ELI AND IAN BOTH HAD

		LONG AND EXTENSIVE CRIMINAL HISTORIES WHICH NO ONE SEEMS TO THINK MATTERS, THE LEGAL SYSTEM DID NOT WORK FOR US, (CITES IDAHO STATUTE) I REALIZE MY HUSBAND WAS RESPONSIBLE FOR A MANS LIFE BUT I CANNOT HELP THINKING THAT IT COULD HAVE BEEN ME AND MY CHILDREN, I AM NOT CALLOUS BUT THINGS ARE GREATLY IMBALANCED, OUR BOYS NEED THEIR FATHER, PLEASE YOUR HONOR I ASK YOU TO RIGHT A WRONG AND LET THE FATHER OF MY BABIES GO HOME,
428	IR	NO QUESTIONS
	LM	CROSS
	JA	THE GUN WAS NEVER FOUND, I GUESS HE ADMITTED HIS GUILTY I JUST KNOW WHAT HE WAS CHARGED WITH
429	J	MRS. ANDERSON HAVE YOU SOME IDEA OF MY ROLE IN THIS SITUATION AND THAT I CANT SET ASIDE A JURIES' VERDICT,
	JA	I UNDERSTAND
	J	I CANT SET ASIDE THE JURIES VERDICT
	JA	I KNOW THEY HAD A GREAT LOSS, JAMES IS NOT THE ONLY ONE IN JAIL, SO AM I AND MY CHILDREN, THE RESPONSIBILITY LIES IN TWO PLACES, THEY CAME TO US, PLEASE HAVE MERCY, PLEASE,
431	LM	CROSS
	JA	IF HE REALLY TRULY FELT THREATENED....
432	IR	ONE LAST EXHIBIT # D, ONE HAS BEEN REDACTED BY THE AUTHOR,
	J	ANY OBJECTION TO A THROUGH E
	LM	NO SIR
	J	A THROUGH E ADMITTED THIS WILL TAKE TIME TO REVIEW THESE EXHIBITS WE WILL BE IN RECESS FOR 20 MINUTES
433		OFF RECORD
504		ON RECORD
	J	AS RELATES TO THE DEFERRED PROSECUTION THAT IS THE ASSAULT CAUSING BODILY INJURY A MISDEMEANOR, I TAKE IT HE SUCCESSFULLY COMPLETED?
	IR	I BELIEVE HE DID COMPLETE
	J	MR. MARSHAL DO YOU AGREE?
	LM	I HAVE NO INFORMATION TO THE CONTRARY
	J	AS RELATES TO THE OTHER CRIME THAT OCCURRED IN TEXAS, UNAUTHORIZED USE OF A VEHICLE WERE THOSE FELONIES
	IR	HE HAD DEFERRED PROSECUTION ON THE TWO FELONIES, THEY WERE DISMISSED AFTER HE COMPLETED THE PROGRAM
507	J	I WANT TO MAKE SURE WE ARE ALL IN AGREEMENT,
	IR	(REFERS TO DOCUMENT)
	J	COMMENTS AND RECOMMENDATIONS
507	IR	DEFENSES POSITION THAT SINCE HEARSAY HAS BEEN PRESENTED THROUGH THE POLICE REPORT THE DEFENSE MAY PRESENT IMPEACHMENT, WITNESSES TO THE ASSAULT ON REBECCA DAVIS, ADDITIONALLY REBECCA DAVIS HAS A NUMBER OF VIOLATIONS THAT SHOW HER ABILITY TO BE TRUTHFUL MAY BE IMPAIRED BECAUSE THEY ARE OF A FRAUDULENT NATURE BECAUSE THEY ARE THEFT, ETC. THEREFORE THE TRUTHFULNESS OF PRIOR BATTERY MAY BE CONSIDERED DUBIOUS, REGARDING PSYCHOLOGICAL EVAL IT WAS DONE IN PREPARATION FOR SENTENCING, TAKE NOTE PROSECUTION DOES HAVE INFORMATION AND ON PAGE 4 THE ESSENTIAL ANALYSIS THAT SAYS HE DOES NOT SHOW ANY PATHOLOGY, THERE WAS A NUMBING THAT COULD BE A PRECURSOR TO PTSD, WOULD BE NORMAL FOR WHAT WAS DESCRIBED, ALSO DR. HAUGEN GOES INTO THE REMORSE HE SHOWS, HE WAS TEARFUL, MY CLIENT WISHES THIS HAD NEVER HAPPENED AND HE WILL EXPRESS THAT TO THE COURT, ALSO DID THE TESTING TO SEE IF AN DISORDER THERE WERE NONE, NOT ANTISOCIAL OR IN THE CLUSTER B SECTION, YOU HAVE THE LETTERS FROM THE FAMILY, PSI GIVES EARLY CHILDHOOD, GREW UP

		<p>WITHOUT A FATHER, HAD STEP FATHER AT SOME POINT, CLOSE TO STEP SIBLINGS AND MOTHER, ENJOYS CHILDREN, FISHING, CAMPING, ETC. CAME HERE DUE TO KATRINA, WENT INTO LOGGING INDUSTRY, DID A GOOD JOB, HORRIBLE CASE YOUR HONOR, DEATH IN THIS CASE AND DEFENSE IS WELL AWARE OF THAT AND WISHES IT HAD NEVER HAPPENED, IDAHO STATUTE INDICATES PUNISHMENT UP TO TEN YEARS AND CAN EXTEND TO LIFE, NOT A MINIMUM, IT IS DISCRETIONARY, AT THIS POINT COURT MAY NOT HAVE SUFFICIENT INFORMATION TO DISCERN IF TEN YEARS ARE NECESSARY, COULD ASK FOR TIME SERVED AND RELEASE AND SUSPENDED SENTENCE, THE DEFENSE FEELS REQUIRED TO PLACE BEFORE THE COURT SUPERVISED PROBATION IS AN OPTION, THE DEFENSE URGES THE COURT TO GATHER INFORMATION BEFORE MAKING ANY INDICATION OF FURTHER IMPRISONMENT, WE REALIZE COURT MUST ACT ON THE JURIES VERDICT, 10 FIXED 2 INDETERMINATE, OR GATHER MORE INFORMATION...HE HAS CHANGED ACCORDING TO WITNESSES, NOT A JAIL CONVERSION, YOU WILL HEAR FROM MY CLIENT HIS INCREDIBLE REMORSE, HE UNDERSTANDS THE SERIOUSNESS, I WILL LEAVE FURTHER STATEMENTS TO MY CLIENT</p>
516	LM	<p>NO WRONG COMMITTED IN THIS COURTROOM, FROM THE BEGINNING IN A CONSERVATIVE COUNTY FROM THE VOIR DIRE PROCESS, ONE EVEN OWNED A GUN RANGE, WE NEVER HID BEHIND THE ISSUES OF SELF DEFENSE OR JUSTIFIABLE HOMICIDE, THE JURORS FOUND IT WAS NOT JUSTIFIED, NO WRONG DONE HERE AT ALL, IAN FRIER DIDN'T HIDE FROM WHO HE WAS HE TALKED ON THE STAND ABOUT BEING AT THE BAR AND CAUSING TROUBLE AT THE BAR, THERE WAS NOT PHYSICAL VIOLENCE, ONLY THE SELF SERVING STATEMENTS OF MR. ANDERSON, QUITE FRANKLY NONE OF IT MAKES SENSE, THE STALKING MAKES NO SENSE, WE HAVE MANY CASES AND IN ALL THE CASES EXCEPT MURDER THE VICTIM CAN TALK BUT NOT IN MURDER, ELI HOLT GETS NO OPPORTUNITY TO PRESENT HIS SIDE, HIS MOM WRITES THAT OVER 400 PEOPLE CAME TO HIS FUNERAL, NEVER HID FROM THE FACT THAT ELI AND IAN SHOULD NOT HAVE GONE THERE THAT NIGHT, ELI DID NOT DESERVE WHAT HAPPENED TO HIM THERE, PSI IS AN IMPORTANT TOOL BUT THE WAY THE RULE IS DRAFTED IT IS THE SAME REPORT NO MATTER THE CHARGE, IMPOSSIBLE FOR PSI TO GRASP THE ENTIRETY OF THE SITUATION, (REFERS TO POLICE REPORT FROM TEXAS) THE WAY MR. ANDERSON SEES THINGS AND THE TRUTH ARE TWO DIFFERENT THINGS, DR. HAUGEN DID A WONDERFUL JOB ANALYZING MR. ANDERSON AND SHOWING WHAT MAKES HIM TICK, WE WANT TO KNOW WHAT MAKES THINGS HAPPEN, SOMETHING IN JAMES ANDERSON THAT TRIGGERS RAGE AND THAT IS WHAT HAPPENED HERE, HE HAD A PHONE AND HE COULD HAVE CALLED 911, HE DIDN'T CALL 911 HE CALLED HIS FRIEND MR. ZARNIEK, MR. ANDERSON GOT A GUN AND SHOT HIM, IF ANYONE WAS A THREAT IT WOULD HAVE BEEN IAN FRIER, BUT HE DIDN'T SHOOT IAN F. HE WENT RIGHT FOR ELY HOLT, I KNOW THE COURT APPRECIATES THE JURY IN THIS COUNTY, A WHOLE PACKET WAS PRESENTED TO THE JURY, I ASK FOR A SENTENCE THAT IS COMMENSURATE UNIFIED OF 30 FIRST 20 FIXED, RESTITUTION PACKET PROVIDED TO THE COURT, (CRIME VICTIMS COMPENSATION) NOTE IN THERE FROM CRIME VICTIMS PROGRAM, I KNOW MR. ANDERSON WISHES THIS DIDN'T HAPPEN AND HIS FAMILY ALSO, BUT HE IS STILL HERE ON THE OTHER HAND MR. FRIER LOST HIS BROTHER THAT HE LOOKED UP TO AND THE HOLTS HAVE LOST THERE SON</p>
523		
525	IR	<p>THE VERDICT WAS SIMPLY GUILTY OF 2ND DEGREE MURDER, THEY JUST SAID IT CAME TO THE LEVEL TO BE SUFFICIENT TO MITIGATE 2ND DEGREE MURDER, TESTIMONY NEVER PROVIDED A PICTURE OF MY CLIENT WALKING UP TO THE VICTIM AND SHOOTING HIM, DIFFERING STATEMENTS, NO FINDING OTHER THAN 2ND DEGREE MURDER, INAPPROPRIATE STATEMENT, REQUEST HEARING ON RESTITUTION ISSUE, POLICE REPORT IS HEARSAY AND BECAUSE OF THAT DOES NOT REPRESENT THE TRUTH OF THE MATTER</p>

		BEING ASSERTED, MERELY A POLICE REPORT OF AN EVENT ON WHICH WE HAVE IMPEACHED THE SOURCE
527	J	MR. ANDERSON?
	JA	YES SIR, NOTHING I CAN SAY TODAY THAT YOU PROBABLY HAVENT HEARD NUMEROUS TIMES BEFORE, I ALSO APOLOGIZE FOR MY WIFE, I DON'T HARBOR ANY ANGER, I AM VERY SORRY THAT THIS HAPPENED, WISH IT NEVER HAD TAKEN PLACE, EVERY DAY I WAKE UP WITH SORROW AND GRIEF AND I HAVE NO WAY TO SHOW YOU THAT OR HOW THAT BOTHERS ME, I AM VERY TROUBLED OVER THE LOSS OF ELY'S LIFE I WISH I COULD TAKE IT BACK, I KNOW YOU HAVE A DIFFICULT BUT NECESSARY JOB AND I THROW MYSELF ON THE MERCY OF THE COURT TODAY,
529	J	ANY LEGAL CAUSE WHY JDG SHOULD NOT BE PRONOUNCED?
	IR	NO SIR
	J	HAVING BEEN FOUND GUILTY BY A JURY JDG YOU ARE GUILTY OF MURDER IN THE SECOND DEGREE, ONE ISSUE THAT IS DIFFICULT AFTER ANY TRIAL IS DISTINCTION BETWEEN WHAT PEOPLE HEARD WHILE NOT IN COURT AND WHILE THEY DID NOT HAVE THE OPPORTUNITY TO VIEW EVIDENCE THAT HAS BEEN PRODUCED, FAMILY MEMBERS OF MR. ANDERSON VIEW MR. ANDERSON IN THE WAY THEY ALWAYS HAVE, THAT BEING A HARDWORKING HONEST FORTHRIGHT INDIVIDUAL AND BASIS IS THEIR PERSONAL KNOWLEDGE SO TO THEM THE IDEA HE COULD POINT A GUN AND MURDER ANOTHER PERSON DOES NOT FIT IN THEIR VIEW, I RESPECT AND UNDERSTAND THAT, THAT SAID, ON OCTOBER 20, 2009 THE JURY CONCLUDED JAMES M ANDERSON MURDERED ALVIN HOLT BY SHOOTING WITH A HANDGUN, THE WILLFUL MURDER OF A HUMAN BEING IS ONE OF THE MOST SERIOUS CRIMES IN THE STATE OF IDAHO, IN MAKING DECISION TODAY I AM TO BE MINDFUL OF FOUR THINGS PROTECTION OF SOCIETY, DETERRENCE, RETRIBUTION AND REHABILITATION. IN ARRIVING AT A DECISION I TAKE INTO MIND EVIDENCE AT TRIAL, PSI, VICTIMS STATEMENTS, EVALUATION, INFO DURING THIS HEARING, NATURE OF OFFENSE AND POTENTIAL PUNISHMENT RANGE, AGGRAVATING AND MITIGATING FACTORS, NATURE OF MR. ANDERSON I CONSIDER NUMBER AND SEVERITY OF PAST CRIMES, REMORSE, ATTITUDE, SINCERITY PAST USE OF ALCOHOL. ALL THAT I AM REQUIRED TO EVALUATE, IN OUR SOCIETY WE PLACE A HIGH VALUE ON LIFE AND OUR OPPORTUNITY TO LIVE LIFE, THE NEEDLESS TAKING OF LIFE, ONE OF OUR MOST VALUED TREASURES, OTHER THAN OUR SOULS OUR FREEDOM IS OUR MOST PRECIOUS THING, WE ARE WILLING TO DIE IN ORDER TO BE FREE, DUE TO THAT THE WITHDRAWAL OF A MANS FREEDOM IS A SERIOUS PUNISHMENT, IN YOUR PAST YOU HAVE LIVED MAJORITY OF LIFE AS A CITIZEN YOU HAVE NOT COMMITTED CRIMES, YOU DID COMMIT TWO FELONIES IN TEXAS, IN OCTOBER OF 2008 YOU AND ANOTHER MAN COMMITTED A BATTERY ON AN INNOCENT MAN TAKING THE LAW INTO YOUR OWN HANDS, AFTER THAT YOU COMMITTED THE CRIME OF MURDER. THEREFORE COURT SENTENCES YOU TO 20 YEARS 10 YEARS FIXED, 10 INDETERMINATE, I AM AWARE THE ACTIONS INVOLVED IN THE COMMIT ION OF THIS TIME ENDED IN THE PAIN OF BOTH SIDES, TO THE HOLT FAMILY I EXTEND MY CONDOLENCES, TO YOUR FAMILY I AM EMPATHETIC, TO YOU I ADVISE TO DO ALL PROGRAMS AVAILABLE TO YOU. THERE WILL NEED TO BE A RESTITUTION HEARING AT THIS TIME I REMAND TO CUSTODY OF THE BONNER COUNT SHERIFFS OFFICE, THIS SIDE OF THE COURTROOM LEAVE AND LEAVE THE PARKING LOT, ARRANGE TO MEET ELSEWHERE THERE WILL BE A TIME DELAY AND THE PEOPLE ON THE OTHER SIDE MAY LEAVE,
540		END

☒ ADULT

☐ JUVENILE

STATE OF IDAHO }
County of Bonner }
FILED 2/12/10 }
AT 5:45 O'Clock P }
CLERK, DISTRICT COURT }
Deputy cm

JAIL INFORMATION FOR BONNER COUNTY SHERIFF'S OFFICE

JUDGE: Verby

CASE NO. SC08 - 7529

James
(SUBJECT'S FIRST NAME)

Matthew
(SUBJECT'S MIDDLE NAME)

Anderson
(SUBJECT'S LAST NAME)

- [] BY VIDEO
[☒] SUBJECT APPEARED IN COURT ON: 12 Feb. 10 AT 3:30 P M
[☒] SUBJECT IS TO: [] BE OR'D [☒] REMAIN IN CUSTODY
[] BE RELEASED BY JUDGES ORDER
[] BE RELEASED/TIME SERVED [] BOND \$ _____
[] BE RELEASED TO PARENT/PTA
[] MUST SIGN WAIVER OF EXTRADITION [] WORK RELEASE/SEARCH GRANTED
[] AUTHORIZATION TO TRANSFER TO REGION ONE JUVENILE DETENTION CENTER GRANTED, IF NECESSARY.

- [] SENTENCED TO: [] _____ DAYS IMPOSED [] _____ HOURS ON SHERIFF'S LABOR PROGRAM.
[] _____ DAYS SUSPENDED SIGN UP WITHIN SEVEN (7) DAYS FROM TODAY
[] _____ DAYS TO SERVE AT SHERIFF'S OFFICE AND COMPLETE BY:
[] _____ DAYS CREDIT _____, 20____.

- [] SUBJECT TO REPORT TO THE BONNER COUNTY JAIL ON: _____ AT _____ M
[] BREATH OR U/A TEST ORDERED _____ X'S WEEKLY ON: _____ AT _____ M
[] SUBJECT PLACED IN THE CUSTODY OF THE DEPT. OF HEALTH & WELFARE NOT TO EXCEED _____ YEAR (S).

- [☒] SUBJECT SENTENCED TO SERVE NOT LESS THAN 10 yrs. AND NOT MORE THAN 20 yrs.
IN THE IDAHO STATE DEPT. OF CORRECTIONS.
[] THIS SENTENCE IS SUSPENDED. [] PLACED ON _____ YEARS PROBATION.
[] SUBJECT TO BE PLACED IN THE RETAINED JURISDICTION PROGRAM FOR NOT MORE THAN 180 DAYS.
[] AS CONDITION OF PROBATION, SUBJECT TO SERVE _____ DAYS LOCAL JAIL.

CHARGES

murder 2 - Guilty

JUDGE'S ORDER: SUBJECT IS TO Remain In Custody
To serve 10 yrs not more than 20 yrs

[☒] JUDGE'S ORDER WILL FOLLOW

[] PUBLIC DEFENDER OFFICE APPOINTED

Steve Verby
JUDGE'S SIGNATURE (if needed)

- 392 - BAILIFF

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2010 MAR -1 P 4: 54

MARIE SCOTT
CLERK DISTRICT COURT
am
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

DOB: [REDACTED]

SSN: [REDACTED]

Defendant.

Case No. CR 2008-0007529

JUDGMENT AND COMMITMENT

On the 12th day of February, 2010, before the Honorable Steve Verby, District Judge, personally appeared Louis Marshall, Prosecuting Attorney for the County of Bonner, State of Idaho, and the Defendant with his attorney, Isabella Robertson, this being the time fixed for pronouncing judgment in this matter.

It is ADJUDGED that the Defendant has been convicted by verdict of the jury of the criminal offense of Murder of the Second Degree, a felony in violation of Idaho Code §§ 18-4001, 18-4002, 118-4003, 18-4004, as charged in the Information on file in the above-entitled

JUDGMENT AND COMMITMENT - 1

matter. The Court having asked whether the Defendant had any legal cause to show why judgment should not be pronounced against him and no sufficient cause to the contrary having been shown or appearing to the Court, it is further ADJUDGED that the Defendant is guilty as charged and convicted, and that the offense for which the Defendant is ADJUDGED guilty herein was committed on or about the 27th day of November, 2008.

It is further ADJUDGED that the Defendant be sentenced, pursuant to Idaho Code § 19-2513 to the custody of the Idaho State Board of Correction to be held and incarcerated by said Board in a suitable place for not less than ten (10) years fixed, ten (10) years indeterminate, not to exceed twenty (20) years. The Defendant shall receive credit for time served.

It is further ORDERED that the Defendant be committed to the custody of the Sheriff of Bonner County, Idaho, for delivery forthwith to the Idaho State Board of Correction at the Idaho State Penitentiary or other facility within the State designated by the State Board of Correction.

It is further ORDERED that the Clerk deliver a certified copy of this JUDGMENT and COMMITMENT to the said Sheriff who shall serve as the commitment of the Defendant.

It is further ORDERED that any bond remaining posted as of this date is exonerated.


NOTICE OF RIGHT TO APPEAL

YOU ARE HEREBY NOTIFIED that you have a right to appeal this Order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days of the

entry of the written Order in this matter.

YOU ARE FURTHER NOTIFIED that if you are unable to pay the costs of an appeal, you have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of counsel at public expense. If you have questions concerning your right to appeal, you should consult your present lawyer.

DATED this 1st ^{March} ~~February~~, 2010.



Steve Verby
District Judge

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid or by interoffice mail, this 2nd day of ~~February~~ ^{March}, 2010, to:

Idaho Dept. of Correction
Sentencing Specialist, Records
1299 North Orchard, Suite 110
Boise, ID 83706
(certified)

Louis Marshall
Bonner County Prosecuting Attorney
Courthouse Mail
Sandpoint, ID 83864

Isabella Robertson
Bonner County Public Defender
Courthouse Mail
Sandpoint, ID 83864

Bonner County Sheriff
Courthouse Mail
Sandpoint, ID 83864


District Court Secretary/Deputy Clerk

STATE OF IDAHO
COUNTY OF BONNER
1ST JUDICIAL DISTRICT

2010 MAR 15 P 2:03

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

BONNER COUNTY PROSECUTING ATTORNEY

Louis E. Marshall (ISBN 6441)

127 South First Avenue

Sandpoint, ID 83864

(208) 263-6714

(208) 263-6726 Fax

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

DOB: [REDACTED]


Defendant.

Case No. **CR-2008-7529**

SUBMISSION TO COURT

COMES NOW Louis E. Marshall, Prosecuting Attorney for Bonner County, Idaho, and submits to the Court and Counsel for Defendant the revised Restitution Information Worksheet dated March 15, 2010.

DATED this 15th day of March, 2010.


LOUIS E. MARSHALL
Prosecuting Attorney

SUBMISSION TO COURT

CR-2008-7529

Page | 1

CERTIFICATE OF DELIVERY

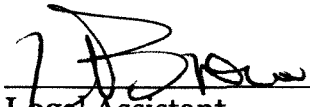
I hereby certify that a true and correct copy of the foregoing was delivered this 15th day of March, 2010, to:

Isabella Robertson

Public Defender/Attorney for Defendant

Courthouse mailbox

Sandpoint, ID



Legal Assistant

RESTITUTION INFORMATION WORKSHEET

DEFENDANT: **JAMES M. ANDERSON**

Case No. **CR-2008-7529**

CO-DEFENDANTS:

REVISED

Attorney: **LM**

Date Prepared: **March 15, 2010**

Prepared by: **am**

ELVIN HOLT (Deceased)

Mr. and Mrs. Dale Holt

P. O. Box 159

Kootenai, ID 83840

Lakeview Funeral Home

\$ 1,346.88

Boundary Regional CHC

\$ 10.00

Jason Munzke, MS, LCPC

\$ 125.00

\$ 1,481.88

\$ 1,481.88

CRIME VICTIM COMPENSATION PROGRAM

P. O. Box 83720

Boise, ID 83720-0041

RE: Elvin Holt, CV#2008002166

Lakeview Funeral Home

\$ 4,040.62

Boundary Regional CHC

\$ 30.00

Jason Munkze, MS, LCPC

\$ 375.00

\$ 4,445.62

\$ 4,445.62

IAN FREIR

P. O. Box 271

Ponderay, ID 83852

Account balances not covered by CVCP:

Bonner Immediate Care

\$ 20.75

Boundary Regional CHC

\$ 2,120.75

Mileage reimbursement

\$ 313.55

Nikole Ahner-Brown 5/14/09 appointment

\$ 251.00

Nikole Brown's appointments 5/18/09, 5/19/09,

6/1/09 and 6/2/09 @ \$152 each

\$ 608.00

Ian Freir sub-total

\$ 3,314.05

Sub-total

\$ 5,927.50

RESTITUTION INFORMATION WORKSHEET

Ian Freir continued:

Kootenai Medical Center Business Service-Freir
 Sandpoint Super Drug - medication - includes
 additional Sandpoint Super Drug medication of 1/14/10,
 9/18/09, and 11/20/09.

\$ 5,592.47

\$ 144.35

\$ 9,050.87

\$ 9,050.87

CRIME VICTIM COMPENSATION PROGRAM

P. O. Box 83720

Boise, ID 83720-0041

RE: Ian Freir, CV#2009000025

75 % of provider balance covered by CVCP:

Bonner Immediate Care

\$ 62.25

Boundary Regional CHC

\$ 2,841.25

Freir's mileage reimbursement

\$ 709.81

Freir's lost wages

\$ 10,875.00

Kootenai Medical Center Business Services

\$ 3,355.50

Sandpoint Super Drug

\$ 433.06

Additional mileage reimbursement

\$ 230.62

\$ 18,507.49

\$ 18,507.49

IAN FREIR CVCP benefits expected to max out at \$25,000 cap.

Rehab is on-going.

Sub-total \$ 33,485.86

RESTITUTION INFORMATION WORKSHEET

MR. AND MRS. E. DALE HOLT SR.

P. O. Box 159

Kootenai, ID 83840

Boundary Regional CHC 2/19/09 w/MaCahon - Alice

\$ 20.00

Boundary Regional CHC 5/15/09 w/MaCahon - Alice

\$ 20.00

Boundary Regional CHC 3/3/09 w/Wilson - Dale (appt.
for pharmacy prescriptions)

\$ 32.00

White Cross Pharmacy Lorazepam, as listed - Alice

\$ 77.08

White Cross Pharmacy Alprazolam and Sertraline, as
listed - Dale

\$ 205.56

\$ 354.64

\$ 354.64

TOTAL RESTITUTION DUE:

\$ 33,840.50

- 401 -

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2010 MAR 16 P 1:04

MARIE COLE
CLERK DISTRICT COURT
DEPUTY

BONNER COUNTY PROSECUTING ATTORNEY

Louis E. Marshall (ISBN 6441)

127 South First Avenue

Sandpoint, ID 83864

(208) 263-6714

(208) 263-6726 Fax

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

DOB: [REDACTED]

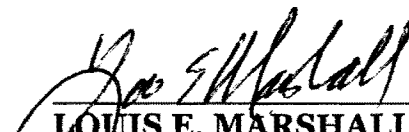
Defendant.

Case No. **CR-2008-7529**

**MOTION FOR RESTITUTION AND
NOTICE OF HEARING**

COMES NOW Louis E. Marshall, Prosecuting Attorney for Bonner County,
Idaho, and hereby moves the Court to for an Order directing James M. Anderson to pay
restitution as listed in the attached Restitution Information Worksheet.

DATED this 15 day of March, 2010.



LOUIS E. MARSHALL
Prosecuting Attorney

MOTION FOR RESTITUTION AND NOTICE OF HEARING

CR-2008-7529

Page | 1

NOTICE OF HEARING

TO: JAMES M. ANDERSON, the above-named Defendant, and your Attorney, ISABELLA ROBERTSON, Bonner county Public Defender

NOTICE IS HEREBY GIVEN that the State will call on for hearing the above Motion for Restitution on the 19th day of April, 2010, at the hour of 10:30 o'clock a.m. at the Bonner County Courthouse, 215 S. First Avenue, Sandpoint, Idaho, or as soon thereafter as Counsel may be heard.

DATED this 15 day of March, 2010.



LOUIS E. MARSHALL
Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was delivered this 16th day of March, 2010, to:

Isabella Robertson
Attorney for Defendant
Public Defender
Courthouse mailbox
Sandpoint, ID



Legal Assistant

RESTITUTION INFORMATION WORKSHEET

DEFENDANT: **JAMES M. ANDERSON**

Case No. **CR-2008-7529**

CO-DEFENDANTS:

REVISED

Attorney: **LM**

Date Prepared: **March 15, 2010**

Prepared by: **am**

ELVIN HOLT (Deceased)

Mr. and Mrs. Dale Holt

P. O. Box 159

Kootenai, ID 83840

Lakeview Funeral Home

\$ 1,346.88

Boundary Regional CHC

\$ 10.00

Jason Munzke, MS, LCPC

\$ 125.00

\$ 1,481.88 \$ 1,481.88

CRIME VICTIM COMPENSATION PROGRAM

P. O. Box 83720

Boise, ID 83720-0041

RE: Elvin Holt, CV#2008002166

Lakeview Funeral Home

\$ 4,040.62

Boundary Regional CHC

\$ 30.00

Jason Munkze, MS, LCPC

\$ 375.00

\$ 4,445.62 \$ 4,445.62

IAN FREIR

P. O. Box 271

Ponderay, ID 83852

Account balances not covered by CVCP:

Bonner Immediate Care

\$ 20.75

Boundary Regional CHC

\$ 2,120.75

Mileage reimbursement

\$ 313.55

Nikole Ahner-Brown 5/14/09 appointment

\$ 251.00

Nikole Brown's appointments 5/18/09, 5/19/09,

6/1/09 and 6/2/09 @ \$152 each

\$ 608.00

Ian Freir sub-total

\$ 3,314.05

Sub-total \$ 5,927.50

RESTITUTION INFORMATION WORKSHEET

Ian Freir continued:

Kootenai Medical Center Business Service-Freir
Sandpoint Super Drug - medication - includes
additional Sandpoint Super Drug medication of 1/14/10,
9/18/09, and 11/20/09.

\$ 5,592.47

\$ 144.35

\$ 9,050.87

\$ 9,050.87

CRIME VICTIM COMPENSATION PROGRAM

P. O. Box 83720

Boise, ID 83720-0041

RE: Ian Freir, CV#2009000025

75 % of provider balance covered by CVCP:

Bonner Immediate Care

\$ 62.25

Boundary Regional CHC

\$ 2,841.25

Freir's mileage reimbursement

\$ 709.81

Freir's lost wages

\$ 10,875.00

Kootenai Medical Center Business Services

\$ 3,355.50

Sandpoint Super Drug

\$ 433.06

Additional mileage reimbursement

\$ 230.62

\$ 18,507.49

\$ 18,507.49

IAN FREIR CVCP benefits expected to max out at \$25,000 cap.

Rehab is on-going.

Sub-total \$ 33,485.86

RESTITUTION INFORMATION WORKSHEET

MR. AND MRS. E. DALE HOLT SR.

P. O. Box 159

Kootenai, ID 83840

Boundary Regional CHC 2/19/09 w/MaCahon - Alice

\$ 20.00

Boundary Regional CHC 5/15/09 w/MaCahon - Alice

\$ 20.00

Boundary Regional CHC 3/3/09 w/Wilson - Dale (appt.
for pharmacy prescriptions)

\$ 32.00

White Cross Pharmacy Lorazepam, as listed - Alice

\$ 77.08

White Cross Pharmacy Alprazolam and Sertraline, as
listed - Dale

\$ 205.56

\$ 354.64

\$ 354.64

TOTAL RESTITUTION DUE:

\$ 33,840.50

BONNER COUNTY PUBLIC DEFENDER
 Isabella Robertson (ISBN: 6068)
 406 South Ella Street
 Sandpoint, Idaho 83864
 Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

2010 MAR 19 P 3:32

MARIE SCOTT
 CLERK DISTRICT COURT
cm
 DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON,

Defendant.

CASE NUMBER CR-08-0007529

MOTION FOR STAY OF EXECUTION OF
 JUDGMENT AND FOR O.R. RELEASE OR
 ADMISSION TO BAIL PENDING
 APPEAL; NOTICE OF HEARING

DATE: APRIL 20, 2010

TIME: 9:01 A.M.

COMES NOW the above-named Defendant, James M. Anderson, by and through his attorney of record, Isabella Robertson, Bonner County Public Defender, and hereby moves the Court pursuant to I.C.R. 46(b) and 54.5, and Idaho Code §19-3941, for an order staying execution of the judgment entered herein, and for O.R. release or admission to reasonable bond in an amount set in the Court's discretion pending appeal pursuant to I.C.R. 46(b).

The foregoing motion is based upon the record and pleadings in this cause, and is further based upon the Eighth and Fourteenth Amendments to the United States Constitution, and Article I, §§ 6 and 13 of the Constitution of the State of Idaho.

MOTION FOR STAY OF EXECUTION OF JUDGMENT PENDING APPEAL AND FOR
 O.R. RELEASE OR ADMISSION TO BAIL PENDING APPEAL; NOTICE OF HEARING


1

NOTICE OF HEARING

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion for Stay of Execution of Judgment and for O.R. Release or Admission to Bail Pending Appeal on for hearing on **April 20, 2010, at the hour of 9:01 a.m.**, or as soon thereafter as counsel may be heard before the **Honorable Steve Verby, District Judge.**

DATED this 19 day of March, 2010.

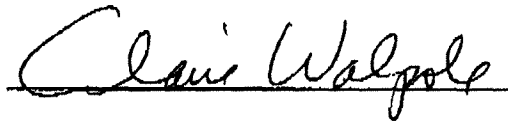
OFFICE OF THE BONNER
COUNTY PUBLIC DEFENDER

BY: 
ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 19th day of March, 2010, served a true and correct copy of the foregoing by facsimile addressed as follows:

Louis Marshall
Bonner County Prosecuting Attorney
Fax: 263-6726.



ORIGINAL

BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (ISBN: 6068)
406 South Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DISTRICT

2010 MAR 19 P 2:44

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON,

Defendant.

CASE NUMBER CR-08-0007529

**MOTION TO SET ASIDE JURY VERDICT
AND FOR ENTRY OF JUDGMENT OF
ACQUITTAL; NOTICE OF HEARING**

DATE: APRIL 20, 2010

TIME: 9:00 A.M.

COMES NOW the above-named defendant, by and through his attorney, Isabella Robertson, Bonner County Public Defender, and pursuant to I.C.R. 29(c), hereby moves the Court for its Order setting aside the jury's verdict of guilty and for entry of a judgment of acquittal.

The foregoing motion is made on the grounds that the jury verdict to the charge of Second Degree Murder was not supported by the evidence presented in the case. The jury was not given any evidence of malice upon which to base the verdict rendered for the offense of Second Degree Murder. Additionally, the jury instructions were structured so that the jury was encouraged to cease consideration and make a determination regarding guilt or innocence of the Defendant prior to receiving the instructions on the definitions that provide for "excuse" or "justification" in a homicide.

**MOTION TO SET ASIDE JURY VERDICT AND FOR ENTRY
OF JUDGMENT OF ACQUITTAL; NOTICE OF HEARING**


Page 1

NOTICE OF HEARING

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion to Set Aside Jury Verdict and for Entry of Judgment of Acquittal on for hearing on **April 20, 2010, at the hour of 9:00 a.m., or as soon thereafter as counsel may be heard before the Honorable Steve Verby, District Judge.**

DATED this 19 day of March, 2010.

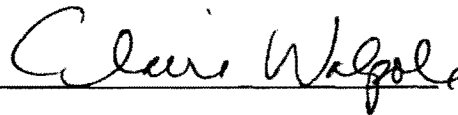
OFFICE OF THE BONNER
COUNTY PUBLIC DEFENDER

BY: 
ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that true and correct copies of the foregoing were personally served by depositing copies thereof in the courthouse mailbox or by facsimile on the 19th day of March, 2010, addressed to:

Louis Marshall
Bonner County Prosecuting Attorney
Via Fax: 263-6726.



STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DISTRICT

2010 MAR 23 P 1:25

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

BONNER COUNTY PROSECUTING ATTORNEY

127 S. First Avenue
Sandpoint, ID 83864
(208) 263-6714
Fax: (208) 263-6726

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,


Defendant.

Case No. CR-2008-7529

**OBJECTION TO DEFENDANT'S MOTION
TO SET ASIDE JURY VERDICT AND
MOTION TO STRIKE**

COMES NOW State of Idaho, by and through Louis E. Marshall, Bonner County Prosecuting Attorney, and moves to strike Defendant's motion to set aside jury verdict and for entry of judgment of acquittal. Said motion and objection is based on the untimeliness of Defendant's motion.

DATED this 22nd day of March, 2010.


LOUIS E. MARSHALL
Prosecuting Attorney

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was delivered this 20th day of March, 2010, to:

Isabella Robertson - fax'd
Attorney for Defendant
Courthouse mailbox
Sandpoint, ID


Legal Assistant

ORIGINAL

BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (ISBN: 6068)
406 South Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
DISTRICT
2010 APR -7 A 10: 27

CLERK DISTRICT COURT
has
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff/
Respondent,

V.

JAMES M. ANDERSON,

Defendant/
Appellant.

CASE NUMBER CR-08-0007529

MOTION FOR APPOINTMENT OF
STATE APPELLATE PUBLIC DEFENDER

COMES NOW the above named defendant, by and through his attorney, Isabella Robertson, Bonner County Public Defender, and hereby moves the Court for its Order pursuant to Idaho Code §19-867, et seq., and I.A.R. Rule 13(b), (12) and (19) appointing the State Appellate Public Defender's Office to represent the Appellant in all further appellate proceedings and allowing counsel for the Defendant to withdraw as counsel of record following disposition of any motions in this Court. This motion is brought on the grounds and for the reasons that the Defendant is currently being represented by the Bonner County Public Defender's Office; the State Appellate Public Defender is authorized by statute to represent the Defendant in all felony

MOTION FOR APPOINTMENT OF STATE
APPELLATE PUBLIC DEFENDER

-1-

appellate proceedings; and it is in the interest of justice for them to do so in this case since the Defendant is indigent, and any further proceedings in this case will be appealed.

DATED this 7th day of April, 2010.

OFFICE OF THE BONNER
COUNTY PUBLIC DEFENDER

BY: *J. Robertson*
ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this _____ day of April, 2010, served true and correct copies of the foregoing MOTION FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER via interoffice mail or as otherwise indicated upon the parties as follows:

_____ Bonner County Prosecuting Attorney	<input type="checkbox"/>	First Class Mail
P.O. Box 1486	<input type="checkbox"/>	Certified Mail
Sandpoint, Idaho 83864	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	Interoffice Mail
_____ State Appellate Public Defender	<input checked="" type="checkbox"/>	First Class Mail
P.O. Box 83720	<input type="checkbox"/>	Certified Mail
Boise, Idaho 83720-0005	<input type="checkbox"/>	Facsimile
_____ Lawrence Wasden	<input checked="" type="checkbox"/>	First Class Mail
Attorney General	<input type="checkbox"/>	Certified Mail
P.O. Box 83720	<input type="checkbox"/>	Facsimile
Boise, Idaho 83720-0010		
_____ Valerie Larson, Court Reporter	<input checked="" type="checkbox"/>	Interoffice Mail
District Court.		

Clara Walpole

ORIGINAL

BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (ISBN: 6068)
406 South Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DISTRICT

2010 APR -7 A 10: 27

MARIE SCOTT
CLERK DISTRICT COURT
has

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

STATE OF IDAHO,

Plaintiff/
Respondent,

V.

JAMES M. ANDERSON,

Defendant/
Appellant.

CASE NUMBER CR-2008-0007529

NOTICE OF APPEAL

**TO: THE ABOVE NAMED RESPONDENT, STATE OF IDAHO, AND THE CLERK
OF THE ABOVE ENTITLED COURT:**

1. The above named Appellant hereby appeals against the above-named Respondent, the State of Idaho, to the Idaho Supreme Court from the Judgment and Commitment entered March 1, 2010, in this case, the Honorable Steve Verby, District Judge, presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the Order described above in paragraph one is an appealable order under and pursuant to Idaho Appellate Rule 11(c)(1).

3. The issues Appellant intends to assert in this appeal include, but are not necessarily limited to:

NOTICE OF APPEAL

Page 1

- A. The Prosecuting Attorney's closing argument relied on facts not in evidence;
- B. The Court chilled the Defendant's attempt to hear testimony outside hearing of jury;
- C. The Court had the courtroom door locked so that the jury would not be disturbed, thereby depriving the Defendant of his right to a public hearing;
- D. At trial the jury was not given any evidence of malice upon which to base the verdict rendered for the offense of Second Degree Murder;
- E. At trial the jury instructions were structured so that the jury was encouraged to cease consideration and make a determination regarding guilty or innocence of the Defendant prior to receiving the instructions on the definitions that provide for "excuse" or "justification" in a homicide;
- F. Excessive sentence;
- G. Abuse of discretion;
- H. Leniency.

4. Appellant requests the preparation of the entire reporter's standard transcript as defined in Rule 25 I.A.R., and to also include the following:

- A. Pursuant to Rule 25(b), the transcripts of all testimony and proceedings reported by the reporter at the following hearings:
 - a) Jury trial commencing October 13, 2009, at 9:00 a.m. and ending October 20, 2009, at 5:11 p.m.
 - b) Sentencing held February 12, 2010, commencing at 3:30 p.m.

5. The Appellant requests the following documents to be included in the clerk's record in addition to those automatically included under Rule 28 I.A.R.:

A. Presentence Report filed December 29, 2009.

6. I hereby certify as follows:

A. A copy of this Notice of Appeal has been served upon the court reporter.

B. The Appellant is exempt from paying the estimated transcript fee because the Appellant is an indigent who is represented by the Office of the Bonner County Public Defender.

C. The Appellant is exempt from paying the filing fee because the Appellant is an indigent who is represented by the Office of the Bonner County Public Defender.

D. The Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is an indigent who is represented by the Office of the Bonner County Public Defender.

E. Service has been made upon all parties required to be served pursuant to Rule 20 I.A.R., to wit the Bonner County Prosecuting Attorney, and the Attorney General of Idaho pursuant to Section 67-1401 (1) Idaho Code.

DATED this 7th day of April, 2010.

OFFICE OF THE BONNER
COUNTY PUBLIC DEFENDER

BY: *J. Robertson*
ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 7th day of April, 2010, served a true and correct copy of the attached NOTICE OF APPEAL via interoffice mail or as otherwise indicated upon the parties as follows:

_____ Bonner County Prosecuting Attorney	<input type="checkbox"/>	First Class Mail
P.O. Box 1486	<input type="checkbox"/>	Certified Mail
Sandpoint, Idaho 83864	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	Interoffice Mail
_____ State Appellate Public Defender	<input checked="" type="checkbox"/>	First Class Mail
P.O. Box 83720	<input type="checkbox"/>	Certified Mail
Boise, Idaho 83720-0005	<input type="checkbox"/>	Facsimile
_____ Lawrence Wasden	<input checked="" type="checkbox"/>	First Class Mail
Attorney General	<input type="checkbox"/>	Certified Mail
P.O. Box 83720	<input type="checkbox"/>	Facsimile
Boise, Idaho 83720-0010		
_____ Val Larson, Court Reporter	<input checked="" type="checkbox"/>	Interoffice Mail.
District Court		

C. Lewis Walpole

BONNER COUNTY PUBLIC DEFENDER
Isabella Robertson (ISBN: 6068)
406 South Ella Street
Sandpoint, Idaho 83864
Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2010 APR -8 A 9:48

CLERK DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff/
Respondent.

V.

JAMES M. ANDERSON,

Defendant/
Appellant.

CASE NUMBER CR-08-0007529

ORDER FOR APPOINTMENT OF STATE
APPELLATE PUBLIC DEFENDER

The Court having reviewed and considered the Defendant's Motion for Appointment of State Appellate Public Defender, and good cause appearing therefor;

IT IS HEREBY ORDERED that the State Appellate Public Defender's Office is appointed to represent the Defendant in all further appellate proceedings.

IT IS FURTHER ORDERED that the Bonner County Public Defender may withdraw as counsel of record in this case following disposition of any motions pending before this court.

DATED this 8th day of April, 2010.


DISTRICT JUDGE

ORDER FOR APPOINTMENT OF STATE
APPELLATE PUBLIC DEFENDER

-1-

CLERK'S CERTIFICATE

I HEREBY CERTIFY that I have this 16th day of ^{July}~~April~~, 2010, served true and correct copies of the attached ORDER FOR APPOINTMENT OF STATE APPELLATE PUBLIC DEFENDER via interoffice mail or as otherwise indicated upon the parties as follows:

_____ Bonner County Public Defender	<input type="checkbox"/>	First Class Mail
406 S. Ella Street	<input type="checkbox"/>	Certified Mail
Sandpoint, Idaho 83864	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	Interoffice Mail
_____ Bonner County Prosecuting Attorney	<input type="checkbox"/>	First Class Mail
P.O. Box 1486	<input type="checkbox"/>	Certified Mail
Sandpoint, Idaho 83864	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	Interoffice Mail
_____ State Appellate Public Defender	<input checked="" type="checkbox"/>	First Class Mail
P.O. Box 83720	<input type="checkbox"/>	Certified Mail
Boise, Idaho 83720-0005	<input type="checkbox"/>	Facsimile
_____ Lawrence Wasden	<input checked="" type="checkbox"/>	First Class Mail
Attorney General	<input type="checkbox"/>	Certified Mail
P.O. Box 83720	<input type="checkbox"/>	Facsimile
Boise, Idaho 83720-0010		
_____ Valerie Larson, Court Reporter	<input checked="" type="checkbox"/>	Interoffice Mail
District Court.		



BONNER COUNTY PUBLIC DEFENDER
 Isabella Robertson (ISBN: 6068)
 406 South Ella Street
 Sandpoint, Idaho 83864
 Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DISTRICT

2010 APR 13 P 3:11

MARIE SCOTT
 CLERK DISTRICT COURT
 DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON,

Defendant.

CASE NUMBER CR-08-0007529

ORDER FOR TELEPHONIC
 APPEARANCE

The Court having before it the Stipulated Motion for Telephonic Appearance on file herein, and good cause appearing; now, therefore,

IT IS HEREBY ORDERED that the Defendant appear by telephone at the hearing scheduled in this case on April 19, 2010, at 10:30 a.m.

IT IS FURTHER ORDERED that the Public Defender's Office arrange the necessary telephone conference call.

DATED this 13th day of April, 2010.


 DISTRICT JUDGE

CLERK'S CERTIFICATE

I hereby certify that true and correct copies of the foregoing were personally served by placing copies of the same in the interoffice mailbox or by facsimile on the 13 day of April, 2010, addressed to:

Isabella Robertson
Bonner County Public Defender
Fax: 255-7559

Louis Marshall
Bonner County Prosecuting Attorney
Fax: 263-6726.

Linda Appelt

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

COURT MINUTES

JUDGE: STEVE VERBY
REPORTER: NONE
CLERK: CHERIE MOORE
DIVISION: DISTRICT

CASE NO. CR-2008-0007529
DATE: 05/20/2010 **TIME:** 9:00 AM
COURTROOM 1

STATE OF IDAHO

vs. JAMES MATTHEW ANDERSON

Plaintiff / Petitioner

Defendant / Respondent

Attorney: LOUIS MARSHALL

Attorney: ISABELLA ROBERTSON

SUBJECT OF PROCEEDINGS: MOTION FOR STAY OF EXECUTION OF JUDGMENT AND FOR
O.R. RELEASE OR ADMISSION TO BAIL PENDING APPEAL –
MOTION FOR RESTITUTION

INDEX	SPEAKER	PHASE OF CASE
9:01	J	Calls Case
		Present: DEFENDANT (by telephone), ISABELLA ROBERTSON, LOUIS MARSHALL
	J	I AM DECLARING AN EMERGENCY DUE TO THE FACT THAT WE DO NOT HAVE A COURT REPORTER – WILL PROCEED BY AUDIO RECORDING – FIRST MOTION IS FOR STAY OF EXECUTION OF JUDGMENT OR O.R. RELEASE OR ADMISSION TO BAIL PENDING APPEAL
	IR	THE DEFENSE IS RELYING ON <i>State v. Kerrigan</i> – THIS CASE GOES INTO A DISCUSSION AND STATES CONSIDERATION FOR BAIL PENDING APPEAL – IT IS A DISCRETIONARY ACT ON BEHALF OF THE COURT AND TAKES INTO CONSIDERATION THAT THE MOTION FOR APPEAL AND THE ITEMS LISTED THERE MUST BE TAKEN INTO GOOD FAITH AND NOT BE A FRIVOLOUS APPEAL – THE DEFENSE IS CONCERNED THAT SOME OF THE COMMENTS OF THE COURT OUTSIDE THE JURY – CONCERN OF PREJUDICE EVEN THOUGH THE JURORS WERE TOLD TO DISREGARD – DEFENSE DOES NOTE THAT THE COURTROOM DOOR WAS OPEN AT TIMES DURING RECESS AND THOSE TIMES WERE PREDICTABLE – THE DEFENSE DOES NOTE THAT THE SENTENCE BY THE COURT THAT IS REQUIRED BY CODE IS NOT MANDATORY – THE COURT DID LEVY A 10 YEAR INDETERMINATE SENTENCE – THE DEFENSE FEELS THAT THESE ARE NOT CLEARLY FRIVOLOUS AND THERE IS MERIT TO BE CONSIDERED – MY CLIENT'S RELEASE DOES NOT CAUSE A MENACE TO SOCIETY AND WILL NOT FLEE – HIS FAMILY IS HERE, HIS WIFE, HIS CHILDREN, HIS IN-LAWS – FOR THE COURT TO BE ASSURED THAT HE WOULD NOT FLEE – HE COULD WEAR AN ANKLE BRACELET AND IT WOULD ALLOW HIM TO BE ABLE TO WORK TO PAY HIS RESTITUTION WHICH WILL BE STIPULATED TO AT A LATER MOTION – AWARE THE COURT NEEDS TO CONSIDER THE CRIME AND PAST CONVICTIONS – MY CLIENT IS CONSIDERED A LOW RISK AT ICC – NO PROGRAMS ARE AVAILABLE FOR HIM UNTIL HIS 8 TH YEAR – NOTHING FURTHER
9:10	J	I AM INTERESTED IN SUBSECTION (b) OF SUBSECTION 3 OF THE COURT OF APPEAL – WHAT IS THAT BASED UPON
	IR	AT THE END OF TRIAL THAT THERE WERE TOO MANY RECESSES TAKEN – THE JURY WAS GETTING RESTLESS – COULD HAVE HEARD TESTIMONY OUTSIDE THE JURY – IT CHILLED THE DEFENSE

	J	WHICH TESTIMONY WERE YOU CHILLED FROM DOING SO?
9:13	IR	IT WAS DETECTIVE BURKE WHO WAS THE PROSECUTOR'S LAST WITNESS
	J	WHAT WOULD YOU HAVE ASKED HIM OUTSIDE THE PRESENCE OF THE JURY?
	IR	THE SAME QUESTIONS I ASKED HIM IN THE PRESENCE OF THE JURY - I COULD NOT GET AROUND THEM - REGARDING HIS PREJUDICES AND BIASES - WOULD HAVE ASKED MORE SALIENT QUESTIONS ABOUT WHAT HE SAW AND WHAT HE DIDN'T SEE
	J	I AM NOT MAKING THE CONNECTION - YOU WOULD HAVE ASKED HIM MORE QUESTIONS?
	IR	I WOULD HAVE ASKED HIM THE VERY SAME QUESTIONS THAT I HAD TO ASK HIM - NOT TALKING ABOUT ANY DISCOVERY ISSUES - IN THE OPINION OF THE DEFENSE, THERE WAS A GREAT DEAL OF INFORMATION THAT DETECTIVE BURKE AND THE GOSSIP - THERE WERE SPECIFIC ALLEGATIONS IN DETECTIVE BURKE'S POLICE REPORT THAT MY CLIENT WAS A SELLER OF DRUGS - I HAD SERIOUS CONCERNS THAT HE WOULD HAVE PROVIDED THOSE INNUENDOS TO THE JURY
	J	YOU WOULD HAVE ASKED HIM QUESTIONS OUTSIDE THE PRESENCE OF THE JURY AND YOU FELT THE CHILLING EFFECT OF MY STATEMENTS
	IR	I WOULD HAVE ASKED HIM THOSE QUESTIONS OUTSIDE THE PRESENCE OF THE JURY - I WOULD HAVE WANTED TO KNOW ABOUT THAT BEFORE - DETECTIVE BURKE'S BEHAVIOR WOULD NOT HAVE BEEN RELIED UPON - HE WENT ALL OUT FOR THE CONVICTION WITHOUT CONSIDERING ANY OTHER OPTION - THE INFORMATION IN THE POLICE REPORT OF SELLING DRUGS, PEOPLE COMING IN AND OUT AT ALL HOURS OF THE NIGHT - I THOUGHT HE WOULD HAVE TRIED TO SLIDE THAT IN THERE
	J	WHY COULD THAT HAVE NOT BEEN COVERED BY A MOTION IN LIMINE?
9:19	IR	IT COULD HAVE BEEN - THERE WERE OTHER WAYS
	J	ITEM C - THE COURT HAD THE COURTROOM DOOR LOCKED - WHAT DO YOU BASE THAT STATEMENT - I AM UNAWARE THAT THE COURTROOM DOOR WAS LOCKED AT ANY TIME WHILE THE COURT WAS IN SESSION
	IR	MY HUSBAND TRIED TO GET IN AND THE DOOR WAS LOCKED
	J	I AM UNAWARE OF THAT OCCURRING AND THERE IS NO EVIDENCE THAT THAT OCCURRED
	IR	I WOULD HAVE TO LOOK AT THE TRANSCRIPT AND I DON'T HAVE IT
	J	MR. MARSHALL, YOUR RESPONSE?
	LM	I DON'T THINK ANY TESTIMONY WAS DISPARAGING TO THE DEFENDANT - DON'T THINK THERE WAS A NEED FOR A MOTION IN LIMINE - THE JURY WOULD HAVE TO HEAR THOSE QUESTIONS TO DETERMINE BIAS OF DETECTIVE BURKE - THE COURT IS WELL AWARE OF THE ISSUE OF BOND PENDING APPEAL - WE OPPOSE THIS MOTION - IF THE COURT DENIES THIS, HE CAN MAKE APPLICATION TO THE COURT OF APPEALS TO HAVE BOND SET IF YOU DENY IT
9:24	J	ANY FURTHER ARGUMENT?
	IR	I HAD A STIPULATION WITH MR. MARSHALL - I WAS NOT TRYING TO ILLICIT BIAS OF DETECTIVE BURKE - I WANTED THAT KEPT AWAY FROM THE JURY, NOT GIVEN TO THE JURY - I REALIZE THAT MR. MARSHALL WAS NOT GOING TO ILLICIT THOSE SPECIFIC QUESTIONS - OTHER ISSUES I HAD CONCERN
	J	HOW DID THAT RESULT IN UNFAIRNESS TO MR. ANDERSON - IF THAT WAS ELICITED OUTSIDE THE PRESENCE OF THE JURY, WHAT'S THE NEXT STEP?
	IR	I DIDN'T WANT IT ELICITED
	J	RULE 46(b) DEALS WITH THE ISSUE OF BAIL WITH RELEASE PENDING APPEAL - UNLESS IT APPEARS THAT THE APPEAL IS FRIVOLOUS, MAY BE MADE BY THE DEFENDANT TO THE APPELLATE COURT - DOES APPEAR UNDER THESE CIRCUMSTANCES, IT DOES FIND THAT THE JURY DID FIND HIM GUILTY - HAVING BEEN CONVICTED AND FOUND GUILTY- I AM GOING TO DECLINE TO SET BAIL PENDING APPEAL
	J	DID YOU WISH TO BE HEARD FURTHER?

9:29	IR	THE REQUEST FOR STAY OF EXECUTION IS BASED ON THE SAME GROUND REGARDING MY CLIENT'S ISSUE OF APPEAL – THE COURT MAY GRANT THE STAY OF EXECUTION – I DO NOT KNOW HOW HE COULD BE HOUSED IF THERE IS NO BOND
	J	MR. MARSHALL?
	LM	WE OPPOSE THAT AS WELL
	J	I DECLINE TO STAY EXECUTION
	J	DID YOU WISH TO BE HEARD ON OTHER MOTION?
	IR	ON NOVEMBER 17, 2009, YOU DENIED THAT MOTION
	J	LOOKING AT MOTION FILED MARCH 19, 2010 – SET FOR HEARING IN APRIL OF 2010
	IR	WILL WITHDRAW THAT BECAUSE IT'S ALREADY BEEN HEARD – IT WAS ENTERED IN ERROR
	J	MR. MARSHALL, YOUR MOTION FOR RESTITUTION?
	LM	THERE WILL NOT NEED TO BE THE NEED FOR A HEARING – COURT WILL RECEIVE A STIPULATION
9:34	END	

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2010 JUN 11 P 4:34

MARIE SCOTT
CLERK DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

vs.

JAMES M. ANDERSON,

Defendant.

Case No.: **CR-2008-7529**

CIVIL JUDGMENT

WHEREAS, on the 12th day of February, 2010, Judgment was entered against the Defendant, James M. Anderson, pursuant to Idaho Code §19-5304 and evidence presented to this Court,

IT IS HEREBY ORDERED that Dale and Alice Holt shall have judgment against the Defendant in the amount of Five Thousand Nine Hundred Thirty-seven Dollars and Fifty Cents (\$5937.508), which shall accrue interest at the statutory rate until fully satisfied.

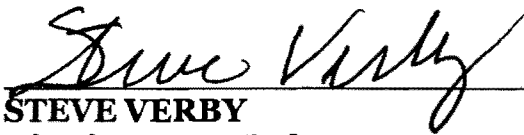
IT IS FURTHER ORDERED that Ian Freir shall have judgment against the Defendant in the amount of Four Thousand Seven Hundred Eighty-six Dollars and Seventy-two Cents (\$4,786.72), which shall accrue interest at the statutory rate until fully satisfied.

IT IS FURTHER ORDERED that Idaho State Crime Victims Fund shall have judgment against the Defendant in the amount of Seven Thousand Four Hundred

CIVIL JUDGMENT
CR-2008-7529
Page 1 of 2

Twenty-seven Dollars and Thirty-two Cents (\$7,427.32), which shall accrue interest at the statutory rate until fully satisfied.

DATED this 11th day of June, 2010.


STEVE VERBY
District Court Judge

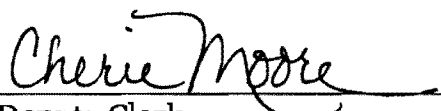
CERTIFICATE OF DELIVERY

14th I hereby certify that a true and correct copy of the foregoing was delivered this day of June, 2010, to:

Louis E. Marshall
Prosecuting Attorney
Courthouse mailbox
Sandpoint, ID

Isabella Robertson
Public Defender
Courthouse mailbox
Sandpoint, ID

Crime Victims Compensation Program
P.O. Box 83720
Boise, ID 83720-0041


Deputy Clerk



Office of
BONNER COUNTY PUBLIC DEFENDER

406 S. Ella Street
Sandpoint, Idaho 83864

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2009 JUL 31 P 2:09

MARIE SCOTT
CLERK DISTRICT COURT

DEPUTY

Telephone: (208) 255-7889
Facsimile: (208) 255-7559

Isabella Robertson, Attorney at Law
Janet K. Whitney, Attorney at Law
Mary F. Shanahan, Attorney at Law

July 31, 2009

Via Facsimile
(208) 263-0896

The Honorable Steve Verby
District Judge
215 S. First Avenue
Sandpoint, Idaho 83864

RE: State v. Anderson; Bonner County Case No. CR-08-0007529

Dear Judge Verby:

Please accept this letter as notice that I am requesting that the defendant's Motion for Change of Venue set for hearing August 3, 2009, at 1:30 p.m., be removed from the Court's calendar.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Isabella Robertson".

Isabella Robertson
Public Defender

/cw

Copy to: Louis Marshall
Bonner County Prosecuting Attorney
Fax: 263-6726

COURT'S
EXHIBIT LIST

TIME: 3:30 PM

STATE OF IDAHO

Plaintiff / Petitioner

Atty: **LOUIS MARSHALL**

VS JAMES ANDERSON

Defendant / Respondent

Atty: ISABELLA ROBERTSON

[illegible]

**FROM THE OFFICE OF THE
CLERK OF THE DISTRICT COURT
BONNER COUNTY, IDAHO
(208) 265-1432**

**STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.**

2010 MAR -9 A 8:17

**MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY**

March 9, 2010

James Matthew Anderson
Idaho State Correctional Institution Unit 15
P.O. Box 14
Boise, ID 83707

Case #CR-2008-7529

Records from the District Court of the First Judicial District in Bonner County, Idaho indicate that you have had a court judgment entered against you. The judgment was for a felony conviction.

Convicted felons lose certain rights until such time as all conditions of that judgment have been met. This includes those who have been granted or may be granted a withheld judgment in their specific case.

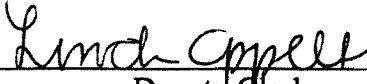
One of those rights lost is the right to vote. Records in this office indicate that you are a registered voter. It is my duty to inform you that we must remove your name from the voter registration list.

Once you have completed all of the terms outlined in your felony judgment, you fill out a new voter registration card in the Clerk's Office; they will then reinstate you as a registered voter.

Should you have any questions concerning this action, please contact the Clerk's office.

**CLERK OF THE DISTRICT COURT
BONNER COUNTY, IDAHO
215 South First Avenue
Sandpoint, Idaho 83864**

I hereby certify that a true and correct copy of the foregoing was mailed, postage pre-paid to the above named individual at the address shown in the above referenced court file on the 9th day of March, 2010.


Deputy Clerk

ORIGINAL

Bonner County Public Defender's Office

Isabella Robertson (ISBN: 6068)

406 S. Ella Street

Sandpoint, Idaho 83864

Phone: (208) 255-7889; Fax: (208) 255-7559

STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DISTRICT

2010 APR 16 P 2:41

MADE SCOTT
CLERK DISTRICT COURT
has
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

STATE OF IDAHO,

Plaintiff,

V.

JAMES M. ANDERSON,

Defendant.

CASE NUMBER CR-08-0007529

OBJECTION TO MOTION FOR
RESTITUTION

COMES NOW the Defendant, James M. Anderson, by and through his attorney of record,
Isabella Robertson, Bonner County Public Defender, and objects to the State's Motion for
Restitution and all of the accompanying Submissions to Court in their entirety.

DATED this 15 day of April, 2010.

OFFICE OF THE BONNER COUNTY
PUBLIC DEFENDER

BY

Isabella Robertson

ISABELLA ROBERTSON
PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing was personally served by placing the same in the Bonner County courthouse interoffice mailbox or by facsimile on the 15th day of April, 2010, addressed to:

Louis Marshall
Bonner County Prosecuting Attorney
Fax: 263-6726.

Claire Walpole

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff,

vs

JAMES M. ANDERSON,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

SUPREME COURT NO. 7529

CLERKS CERTIFICATE

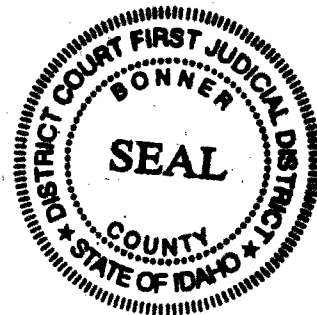
I, Marie Scott, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do certify that the foregoing Record in this cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents requested by Appellant Rule 28.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this ^{24th} day of June, 2010.

MARIE SCOTT
Clerk of the District Court

K. Smith

Deputy Clerk



Clerk's Certificate

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	SUPREME COURT NO. 7529
)	
Plaintiff,	)	CLERK'S CERTIFICATE OF EXHIBITS
)	
vs.)	
)	
JAMES M. ANDERSON,)	
)	
<u>Defendant.</u>)	

I, Marie Scott, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do hereby certify that the following is offered as the Clerk's exhibit on appeal:

Jail Information Sheet filed November 28, 2008 (sealed document).
Notification of Rights filed November 28, 2008.
Driving Record filed December 1, 2008 (sealed document).
Affidavit of Isabella Robertson in Support of Ex Parte Motion for Approval of Investigative Funds filed February 26, 2009.
Letter from Defendant Requesting Conflict Attorney filed May 28, 2009.
Letter to Judge Verby Stating to Vacate Motion for Change of Venue Hearing filed May 29, 2009.
Affidavit of Isabella Robertson in support of Ex Parte Motion for Orders Permitting Disclosure of Health Information filed September 23, 2009.
Court Minutes *Pre-Trial Qualification Hearing for James Anderson Trial* Dated October 2, 2009 (sealed document).
Affidavit of Isabella Robertson in Support of Ex Parte Motion for Payment Of Expenses of Defense filed October 7, 2009.
Court Minutes *Motion in Limine* dated October 8, 2009 (sealed document).
States Exhibit List filed October 13, 2009 (sealed document).
Defense Exhibit List filed October 13, 2009 (sealed document).
Court's Exhibit List filed October 13, 2009 (sealed document).
Jury Envelope Contents filed October 13, 2009 (sealed document).
Victim rights Notification Form filed October 30, 2010.
Presentence Report filed December 29, 2009 (confidential).
Submission to Court filed February 1, 2010.
Notice of Filing Evaluation filed February 10, 2010 (confidential).

In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

JAMES M. ANDERSON,

Defendant-Appellant.

ORDER GRANTING MOTION TO
AUGMENT AND TO SUSPEND THE
BRIEFING SCHEDULE

Supreme Court Docket No. 37591-2010
Bonner County Docket No. 2008-7529

A MOTION TO AUGMENT AND TO SUSPEND THE BRIEFING SCHEDULE AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on January 11, 2011. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT be, and hereby is, GRANTED and the District Court Clerk shall submit to this Court the items listed below as EXHIBITS, items which were NOT submitted with this Motion, and not contained in this record on appeal:

1. Exhibits admitted at trial – State's exhibits 1 – 52 and Defendant's Exhibits A – G.

IT FURTHER IS ORDERED that Appellant's MOTION TO SUSPEND THE BRIEFING SCHEDULE be, and hereby is, GRANTED and proceedings in this appeal shall be SUSPENDED until the exhibits are filed with this Court. Further, the District Court Clerk shall submit the items listed above to this Court on or before fourteen (14) days of the date of this Order, at which time the due date for filing Appellant's Brief shall be reset.

IT FURTHER IS ORDERED that this motion to augment shall be treated as Appellant's 3rd motion for extension of time.

Dated this 20 of January 2011.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record
District Court Clerk

ORDER GRANTING MOTION TO AUGMENT AND TO SUSPEND THE BRIEFING
SCHEDULE – Docket No. 37591-2010

In the Supreme Court of the State of Idaho

STATE OF IDAHO,

Plaintiff-Respondent,

v.

JAMES M. ANDERSON,

Defendant-Appellant.

ORDER GRANTING MOTION TO
AUGMENT THE RECORD

Supreme Court Docket No. 37591-2010
Bonner County Docket No. 2008-7529

A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on April 1, 2011. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the documents listed below, file stamped copies of which accompanied this Motion:

1. Motion for Correction or Reduction of Sentence, ICR 35, file-stamped June 14, 2010; and
2. Order Denying Rule 35 Sentence Reduction and Notice of Right to Appeal, file-stamped June 28, 2010.

IT FURTHER IS ORDERED that the augmentation record shall include the document listed below, a copy of which was attached to this Motion as a CONFIDENTIAL EXHIBIT:

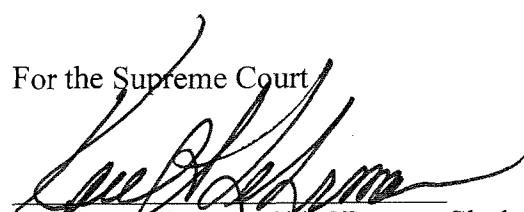
1. Psychological Evaluation, file-stamped February 10, 2010.

IT FURTHER IS ORDERED that the augmentation record shall include the documents listed below, copies of which accompanied this Motion, as EXHIBITS:

1. Exhibits A, B, C, D and E, submitted at the sentencing hearing.

DATED this 14 day of April, 2011.

For the Supreme Court

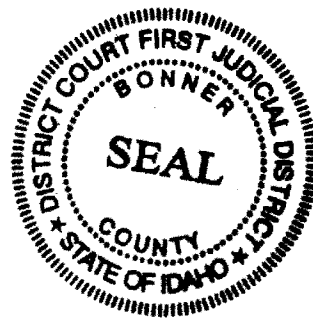

Karel A. Lehrman, Chief Deputy Clerk for
Stephen W. Kenyon, Clerk

cc: Counsel of Record

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the
said Court this 24th day of June, 2010.

Marie Scott
Clerk of the District Court

K. Smith
Deputy Clerk



Certificate Of Exhibits

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF Idaho Supreme Court

)

SUPREME COURT NO. 7529

)

Plaintiff

)

CERTIFICATE OF SERVICE

)

and

)

JAMES M. ANDERSON

)

)

Defendant,

)

)

I, Marie Scott, Clerk of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, do hereby certify that I have personally served or mailed, by United States Mail, one copy of the CLERK'S RECORD and to each of the Attorneys of Record in this cause as follows:

LAWRENCE WASDEN
ATTORNEY GENERAL
P.O. BOX 83720
BOISE, ID 83720-0010

MOLLY HUSKEY
3647 LAKE HARBOR LANE
P.O. BOX 83720
BOISE, ID 83720-0005

ATTORNEY FOR PLAINTIFF

ATTORNEY FOR APPELLANT

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 24th day of June, 2010.

Marie Scott
Clerk of the District Court


Deputy Clerk

Certificate of Service

